

Title 5

BUSINESS LICENSES AND REGULATIONS

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Chapter 5.02

AMUSEMENT DEVICES*

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* For provisions of general charter law granting cities the right to license, tax and regulate business and business enterprises, see WSA 62.11(5).

5.02.010 Definitions. A. "Amusement devices" means any machine or device, coin-operated or for the operation of which a fee is charged, the operation or use of which involves a skill feature, and which do not deliver, pay out, or emit coins, tokens, coupons, tickets, receipts, chips or other things which may be redeemed, accepted or exchanged for money, merchandise, or other thing of value or for use in operating any such amusement device.

B. "Coin-operated phonograph" means any phonograph designed to be operated by use of coin, token, slug or other thing.

C. "Operator-possessor" means the person, firm or corporation operating or conducting the premises, as owner, lessee, tenant or otherwise, in which an amusement device or coin operated phonograph is located or contained for use.

D. No operator-possessor, as herein defined, shall distribute, lease, install or set up any amusement device or coin operated phonograph for use on any premises in the city without first obtaining a license so to do as herein provided. (Prior code §14.01).

5.02.020 Operator's license--Required. Any person, firm or corporation being an operator of an amusement device or coin operated phonograph, as herein defined, shall make application to the city clerk for a license. Licenses shall be issued by the city clerk. (Ord. 4515 §2, 1984; Prior code §14.02(part)).

5.02.030 Operator's license--Fee--Records. The license fee for operator's license shall be as stated in the City of Eau Claire Fees and Licenses Schedule and shall be paid to the city treasurer at the time of filing the application for such license hereunder. Operator's license shall be granted only to persons of good moral character and qualified to do business within the state. Applicants shall consent in their application to reasonable inspection of their records and devices by a representative of the city to determine compliance with this chapter. (Ord. 6363 §6, 2002; Ord. 3951 §2, 1979; Prior code §14.02(part)).

5.02.040 Operator's license--Issuance conditions--Term. A. The operator's license shall be issued in the name of operator-possessor and shall at all times be publicly and continuously displayed in such premises.

B. The license may be transferred to another location, during the current license year, and upon surrender and cancellation of the then existing license, a new license for the unexpired license period shall be issued.

C. The license period shall run from the first day of July to the thirtieth day of June of the succeeding year.

D. The city clerk shall provide appropriate forms of licenses and keep and maintain adequate records of the issue thereof as provided in this chapter. (Prior code §14.02(part)).

5.02.045 Qualified person on premises. As a condition of the license granted hereunder, the licensee, or other qualified, competent person designated by the licensee, shall be on the premises upon which are located licensed amusement devices at all times that such premises is open for business, for the purpose of maintaining order and decorum on the premises. (Ord. 3558 (part), 1975).

5.02.050 Offering a prize prohibited. It is unlawful for any operator or possessor, as herein defined, or for any other person, firm or corporation to offer, advertise, make or give or award any prize, money, or thing of value to any person for, through, or by reason of the use or operation of any amusement device. (Prior code §14.03).

5.02.060 Violation--Penalty. The provisions of Section 5.46.060 shall apply to violations of this chapter. (Prior code §14.05).

5.02.070 Operator's license--Revocation. Upon a second conviction for violations of any of the provisions of this chapter relating to amusement devices and coin-operated phonographs the operator's license shall stand revoked. (Prior code §14.06).

Chapter 5.04**PAWNBROKERS*****Sections:**

- 5.04.010 Purpose.**
- 5.04.020 Definitions.**
- 5.04.030 Inspection of items.**
- 5.04.040 Reserved.**
- 5.04.050 License.**
- 5.04.060 Display of license.**
- 5.04.070 License application.**
- 5.04.080 Investigation of license applicant.**
- 5.04.090 License issuance.**
- 5.04.100 Requirements.**
- 5.04.110 Receipt required.**
- 5.04.120 Label required.**
- 5.04.130 Prohibited acts.**
- 5.04.140 License denial, suspension, or revocation.**
- 5.04.150 Fees.**
- 5.04.160 Penalty.**
- 5.04.170 Severability.**

5.04.010 Purpose. A. The city council finds that the services offered by pawnshops provide an opportunity for individuals to readily transfer stolen property to those businesses. The council also finds that consumer protection regulation is warranted in transactions involving these businesses. The council further finds that pawnshops have outgrown the city's current ability to effectively or efficiently identify criminal activity related to them. The purpose of this chapter is to prevent pawnshops from being used to facilitate the commission of crimes and to assure that they comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens, and pursuant to the authority granted by s. 134.71, Wis. Stats.

B. This chapter implements and establishes the required use of the Automated Pawn System (APS) to help the police department better regulate current and future pawnshops to decrease and stabilize costs associated with the regulation of pawnshops, and to increase identification of criminal activities in pawnshops through the timely collection and sharing of transaction information. (Ord. 6459, 2003).

5.04.020 Definitions. In this section:

- A. "Article" means any item of value.
- B. "Billable transaction" means every reportable transaction except renewals, redemptions, voids, or extensions of existing pawns or purchases previously reported and continuously in the pawnbroker's possession.
- C. "Charitable organization" means a corporation, trust, or community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
- D. "Customer" means a person with whom a pawnbroker, or an agent thereof, engages in a transaction of purchase, sale, receipt, or exchange of any secondhand article.
- E. "Pawnbroker" means any person who engages in the business of lending money on the deposit or pledge of any article or purchasing any article with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price. To the extent that a pawnbroker's business includes buying personal property previously used, rented, leased, or selling it on consignment, the provisions of this chapter shall be applicable. A person is not acting as a pawnbroker when engaging in any of the following:

*Ed. Note: Ordinance no. 6459 provided as follows: The provisions of this ordinance shall take effect on July 1, 2004.

1. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem, or antique show, or a convention.
 2. Any transaction entered into by a person engaged in the business of junk collector, junk dealer, or scrap processor, as described in s. 70.995(2)(x), Wis. Stats.
 3. Any transaction while operating as a charitable organization or conducting a sale, the proceeds of which are donated to a charitable organization.
 4. Any transaction between a buyer of a new article and the person who sold the article when new that involves any of the following:
 - a. The return of the article.
 - b. The exchange of the article for a different, new article.
 5. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.
 6. Any transaction as a seller of a secondhand article that the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.
- F. "Reportable transaction" means every transaction conducted by a pawnbroker in which an article or articles are received through a pawn, purchase, consignment, or trade, or in which a pawn is renewed, extended, voided, or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, and is reportable except:
1. The bulk purchase or consignment of new or used articles from a merchant, manufacturer, or wholesaler having an established permanent place of business, and the retail sale of said articles, provided the pawnbroker must maintain a record of such purchase or consignment that describes each item, and must mark each item in a manner that relates it to that transaction record.
 2. Retail and wholesale sales of articles originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.
- G. "Secondhand" means owned by any person, except a wholesaler, retailer, or licensed secondhand article dealer, immediately before the transaction at hand. (Ord. 6459, 2003).

5.04.030 Inspection of items. At all times during the term of the license, the pawnbroker must allow the police department to enter the premises where the licensed business is located, including all off-site storage facilities, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, wares, merchandise, and records therein to verify compliance with this chapter or other applicable laws. (Ord. 6459, 2003).

5.04.040 (Reserved). (Ord. 6459, 2003).

5.04.050 License. No person may operate as a pawnbroker in the city unless the person first obtains a pawnbroker license under this chapter. (Ord. 6459, 2003).

5.04.060 Display of license. Each license issued under this chapter shall be displayed in a conspicuous place visible to anyone entering a licensed premise. (Ord. 6459, 2003).

5.04.070 License application. A person wishing to operate as a pawnbroker shall apply for a license to the city clerk. The clerk shall furnish application forms approved by the police department that shall require all of the following:

- A. The applicant's name, place and date of birth, residence address, and residence addresses for the 10-year period prior to the date of the application.
- B. The name and address of the business and of the owner of the business premises.
- C. Whether the applicant is a natural person, corporation, limited liability company, or partnership, and:
 1. If the applicant is a corporation, the state where incorporated and the names and addresses of all officers and directors.
 2. If the applicant is a partnership, the names and addresses of all partners.

3. If the applicant is a limited liability company, the names and addresses of all members.
4. The name of the manager or proprietor of the business.
5. Any other information that the clerk may reasonably require.

D. A statement as to whether the applicant, including an individual, agent, officer, director, member, partner, manager, or proprietor, has been convicted of any crime, statutory violation punishable by forfeiture, or county or municipal ordinance violation. If so, the applicant must furnish information as to the time, place, and offense of all such convictions.

E. Whether the applicant or any other person listed in subsection D. above has ever used or been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used.

F. Whether the applicant or any other person listed in subsection D. above has previously been denied or had revoked or suspended a pawnbroker license from any other governmental unit. If so, the applicant must furnish information as to the date, location, and reason for the action. (Ord. 6459, 2003).

5.04.080 Investigation of license applicant. The police department shall investigate each applicant and any other person listed in subsection C. above for a pawnbroker license. The department shall furnish the information derived from that investigation in writing to the city clerk. The investigation shall include each agent, officer, member, partner, manager, or proprietor. (Ord. 6459, 2003).

5.04.090 License issuance. A. The city council shall grant the license if all of the following apply:

1. The applicant, including an individual, a partner, a member of a limited liability company, a manager, a proprietor, or an officer, director, or agent of any corporate applicant, does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335 of the Wisconsin Statutes.

2. The applicant provides to the city clerk a bond of \$2,500 with not less than 2 sureties for the observation of all municipal ordinances or state or federal laws relating to pawnbrokers. The bond must be in full force and effect at all times during the term of the license.

B. No license issued under this subsection may be transferred.

C. Each license is valid from January 1 until the following December 31. (Ord. 6459, 2003).

5.04.100 Requirements. A. Identification. No pawnbroker may engage in a transaction of purchase, receipt, or exchange of any secondhand article from a customer without first securing adequate identification from the customer. At the time of the transaction, the pawnbroker shall require the customer to present one of the following types of identification:

1. Current, valid Wisconsin driver's license;
2. Current, valid Wisconsin identification card;
3. Current, valid photo identification card or photo driver's license issued by another state or province of Canada.

B. Transactions with minors.

1. Except as provided in subsection B. 2., no pawnbroker may engage in a transaction of purchase, receipt, or exchange of any secondhand article from any minor, defined as a person under the age of 18 years.

2. A pawnbroker may engage in a transaction described under subsection B. 1. if the minor is accompanied by his or her parent or guardian at the time of the transaction and the parent or guardian signs the transaction form and provides identification as required by this section.

C. Records required. At the time of any reportable transaction other than renewals, extensions, or redemptions, every pawnbroker must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the police department:

1. A complete and accurate description of each item, including, but not limited to any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.

2. The purchase price, amount of money loaned upon or pledged therefore.

3. The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.

4. Date, time, and place the item of property was received by the pawnbroker, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the pawnbroker's records.

5. Full name, current residence address, current residence telephone number, date of birth, and accurate description of the person from whom the item of property was received, including sex, height, weight, race, color of eyes, and color of hair.

6. The identification number and state of issue from any of the following forms of identification of the seller:

- a. Current, valid Wisconsin driver's license;
- b. Current, valid Wisconsin identification card;
- c. Current, valid photo identification card or photo driver's license issued by another

state or province of Canada.

7. The signature of the person identified in the transaction.

8. Renewals, extensions, and redemptions. The pawnbroker shall provide the original transaction identifier, the date of the current transaction, and the type of transaction for renewals, extensions, and redemptions.

9. Record retention. Data entries shall be retained for at least 1 year from the date of transaction.

10. For every secondhand article purchased, received, or exchanged by a pawnbroker from a customer off the pawnbroker's premises, or consigned to the pawnbroker for sale on their premises, the pawnbroker shall keep a written inventory. In this inventory the pawnbroker shall record the name and address of each customer, the date, time, and place of the transaction, and a detailed description of the article that is the subject of the transaction. The customer shall sign his or her name on a declaration of ownership of the secondhand article identified in the inventory and shall state that he or she owns the secondhand article. The pawnbroker shall retain an original and a duplicate of each entry and declaration of ownership relating to the purchase, receipt, or exchange of any secondhand article for not less than one year after the date of the transaction, except as provided in subsection E., and shall make duplicates of the inventory and declarations of ownership available to any law enforcement officer for inspection at any reasonable time.

D. Holding period. 1. Except as provided in subsection D. 3., any secondhand article purchased or received by a pawnbroker shall be kept on the premises or other place for safekeeping for not less than 30 days after the date of purchase or receipt, unless the person known by the pawnbroker to be the lawful owner of the secondhand article redeems it.

2. During the period set forth in subsection D. 1., the secondhand article shall be held separate from saleable inventory and may not be altered in any manner. The pawnbroker shall permit any law enforcement officer to inspect the secondhand article during this period. Within 24 hours after a request of a law enforcement officer during this period, a pawnbroker shall make available for inspection any secondhand article which is kept off the premises for safekeeping.

3. Subsections D. 1. and 2. do not apply to a secondhand article consigned to a pawnbroker.

E. Redemption period. Any person pledging, pawning or depositing any item for security must have a minimum of 60 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 60-day holding period, items may not be removed from the licensed location. Pawnbrokers are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with the approval of the police department. Written authorization for release of property to persons other than the original pledger must be maintained along with the original transaction record in accordance with subsection C. 9.

F. Police order to hold property.

1. Investigative hold. Whenever a law enforcement officer from any agency notifies a pawnbroker not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to confiscate is issued, pursuant to subsection 2., whichever comes first.

2. Order to confiscate. a. If an item is identified as stolen or evidence in a criminal case, the police department may physically confiscate and remove it from the shop, pursuant to a written order from the police department.

b. When an item is confiscated, the person doing so shall provide identification upon request of the pawnbroker, and shall provide the pawnbroker with the name and phone number of the confiscating officer and the case number related to the confiscation.

c. When an order to confiscate is no longer necessary, the police department shall so notify the pawnbroker.

G. Daily reports to police. 1. Pawnbrokers must submit every reportable transaction to the police department daily in the following manner. Pawnbrokers must provide to the police department all information required in subsection C. and other required information, by transferring it from their computer to the APS via modem. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the police department using procedures that address security concerns of the pawnbroker and the police department. The pawnbroker must display a sign of sufficient size in a conspicuous place on the premises which informs all patrons that all transactions are reported daily to the department and APS.

2. Billable transaction fees. Pawnbrokers will be charged for each billable transaction reported to the police department. These fees are intended to pay for the cost of participation in the APS.

3. If a pawnbroker is unable to successfully transfer the required reports by modem, the pawnbroker must provide the police department with printed copies of all reportable transactions by 12:00 noon the next business day.

4. If the problem is determined to be in the pawnbroker's system and is not corrected by the close of the first business day following the failure, the pawnbroker must provide the required reports as detailed in subsection 3., and shall be charged a daily reporting failure fee of \$10.00 until the error is corrected, or, if the problem is determined to be outside the pawnbroker's system, the pawnbroker must provide the required reports in subsection 3. and resubmit all such transactions via modem when the error is corrected.

5. Regardless of the cause or origin of the technical problems that prevented the pawnbroker from uploading the reportable transactions, upon correction of the problem, the pawnbroker shall upload every reportable transaction from every business day the problem has existed.

6. The provisions of this section notwithstanding, the police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

7. Subsection G. shall not apply to businesses that did not have 200 reportable transactions in the past calendar year. However, any such pawnbroker must follow the daily reporting procedure for each reportable transaction by submitting a written transaction form approved by the police department to the department on the business day following the date of the reportable transaction.

H. Exception for customer return or exchange. Nothing in this section applies to the return or exchange from a customer to a pawnbroker of any secondhand article purchased from the pawnbroker. (Ord. 6459, 2003).

5.04.110 Receipt required. Every pawnbroker must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for 3 years. The receipt must include at least the following information:

- A. The name, address, and telephone number of the licensed business.
- B. The date and time the item was received by the pawnbroker.

- C. Whether the item was pawned or sold, or the nature of the transaction.
- D. An accurate description of each item received, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.
- E. The signature or unique identifier of the pawnbroker or employee that conducted the transaction.
- F. The amount advanced or paid.
- G. The monthly and annual interest rates, including all pawn fees and charges.
- H. The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.
- I. The full name, residence address, residence telephone number, and date of birth of the pledger or seller.
- J. The identification number and state of issue from any of the following forms of identification of the seller:
 - 1. Current, valid Wisconsin driver's license.
 - 2. Current, valid Wisconsin identification card.
 - 3. Current, valid photo driver's license or identification card issued by another state or province of Canada.
- K. Description of the pledger or seller, including approximate sex, height, weight, race, color of eyes, and color of hair.
- L. The signature of the pledger or seller. (Ord. 6459, 2003).

5.04.120 Label required. Pawnbrokers must attach a label to every item at the time it is pawned, purchased, or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the items as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be reused. (Ord. 6459, 2003).

5.04.130 Prohibited acts. A. No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any pawnbroker, nor may any pawnbroker receive any goods from a person under the age of 18 years, except as permitted by s. 5.04.100 B. 2.

B. No pawnbroker may receive any goods from a person of unsound mind or an intoxicated person.

C. No pawnbroker may receive any goods unless the seller presents identification in the form of a valid driver's license, a valid state of Wisconsin identification card, or current, valid photo driver's license or identification card issued by the state of residency of the person from whom the item was received.

D. No pawnbroker may receive any item of property that possesses an altered or obliterated serial number or other identification number, or any item of property that has had its serial number removed.

E. No person may pawn, pledge, sell, consign, leave, or deposit any article of property not their own, nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without, nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest with any pawnbroker.

F. No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any pawnbroker shall give a false or fictitious name, nor give a false date of birth, nor give a false or out-of-date address of residence or telephone number, nor present a false or altered identification or the identification of another to any pawnbroker. (Ord. 6459, 2003).

5.04.140 License denial, suspension, or revocation. A. The city council may deny, suspend, or revoke any license issued by it under this section for fraud, misrepresentation, or false statement contained in the application for a license, or for any violation of this chapter or ss. 134.71, 943.34, 948.62 or 948.63, Wis. Stats., or for any other violation of local, state, or federal law substantially related to the businesses licensed under this chapter.

B. The city council may deny, suspend, or revoke any license issued by it under this section if the applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information. (Ord. 6459, 2003).

5.04.150 Fees. A. The license fee under this chapter shall be as contained in the City of Eau Claire Fees and Licenses Schedule.

B. A billable transaction fee as contained in the City of Eau Claire Fees and Licenses Schedule shall be charged for each billable transaction, and such fees shall be billed to each pawnbroker monthly and are due and payable within 30 days of the billing date. Failure to pay within that time period is a violation of this chapter. (Ord. 6459, 2003).

5.04.160 Penalty. Any person who is convicted of violating any of the provisions of this chapter shall forfeit not less than \$5 nor more than \$2,000, plus the costs of prosecution, and in default of such payment, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days. Each day of violation shall constitute a separate offense. (Ord. 6459, 2003).

5.04.170 Severability. If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected. (Ord. 6459, 2003).

Chapter 5.06

CIGARETTE VENDORS*

Sections:

5.06.010 License--Required.

5.06.020 License--Term.

5.06.030 License--Fee.

5.06.040 Violation--Penalty.

5.06.010 License--Required. It is unlawful for any person, firm or corporation, in any manner, directly or indirectly, upon any pretense or by any device, to manufacture, sell, exchange, barter, dispose of or give away, or keep for sale any cigarettes, cigarette paper or cigarette wrappers or any paper made or prepared for the purpose of being filled with tobacco in the city without first obtaining a license therefor, as provided in Sections 5.06.020 through 5.06.040. (Prior code §15.150).

5.06.020 License--Term. License for the manufacture, sale, exchange, barter, disposition of or giving away or keeping for sale of cigarettes, cigarette paper, or cigarette wrappers made or prepared for the purpose of being filled with tobacco for smoking in the city shall be issued by the city clerk. Every such license shall be issued on the first day of July in each year or thereafter whenever applied for and shall continue in force from date of issuance until the succeeding thirtieth day of June, unless sooner revoked for a violation of this chapter as provided in Section 5.60.040. (Prior code §15.151).

* For statutory requirement that cigarette vendors (except jobbers in interstate commerce) shall be licensed by cities, see WSA 134.65.

5.06.030 License--Fee. Every person desiring a license under this chapter shall file with the city clerk a written application therefor stating the name of the person and the place for which the license is desired. The license fee shall be as stated in the City of Eau Claire Fees and Licenses Schedule. Every license shall be signed by the city clerk and shall name the licensee and the place where the licensee is authorized to conduct such business. The license shall not be delivered until the applicant files with the clerk a receipt showing payment of the license fee to the city treasurer. (Ord. 6363 §7, 2002; Ord. 5875; 1998; Prior code §15.152).

5.06.040 Violation--Penalty. Any person violating any of the provisions of this chapter shall forfeit not less than five dollars nor more than one hundred dollars for each offense; and each day when any cigarettes or cigarette paper or wrappers are manufactured, sold or disposed of within the city without a license having been issued therefor shall be a separate offense. (Prior code §15.153).

Chapter 5.12

ELECTRICIAN'S LICENSE

Sections:

5.12.010 License/certification--Required.

5.12.020 Classes of licensees.

5.12.030 License--Application.

5.12.040 Testing--Fees.

5.12.050 License--Fees.

5.12.055 License renewal.

5.12.010 License/certification--Required. A. No person, firm or corporation shall engage in the business of installing, altering or repairing any electric wiring, fixtures or apparatus for any purpose whatsoever within any of the classes or types herein enumerated and defined, in the city without first having procured a license or state of Wisconsin certification therefor as provided in this chapter.

B. Licenses/certification will not be required for:

1. Adjustment or repairs of highly specialized electrical apparatus or equipment such as but not limited to computers, elevators, dental and medical equipment and X-ray machines, when performed by company or factory authorized personnel;

2. Only minor routine repairs and maintenance of existing facilities when performed by the owner or regularly employed maintenance personnel. Compliance with all code regulations shall be the responsibility of the owner;

3. Electrical work in or on federal or state owned buildings or property. (Ord. 5484 §1, 1995; Ord. 4046 §1, 1980; prior code §10.04(a)).

5.12.020 Classes of electricians. A. Control Wireman. On all construction projects, except as noted below, a person licensed as a control wireman shall be limited to doing electrical work on heating and cooling compressors, fuel fired or other furnaces, and shall wire only to the junction box on a unit attached by an electrical journeyman or master electrician and may do the necessary Class 2 control wiring.

On alterations or additions to a heating or cooling system of existing one- and two-family dwellings, a control wireman may wire the 120 volt or the 240 volt power to an existing circuit breaker panel, fuse panel or disconnect switch. A control wireman shall not alter the circuit breaker or fuse arrangement in electrical panels or add sub-panels or disconnect switches for additional circuits.

Installers of electrical signs shall be licensed as control wiremen if performing electrical work and shall be limited to doing the electrical work in and on an electrical advertising sign and shall attach the necessary wires to a junction box on or near the sign attached by an electrical journeyman or master electrician.

B. Beginning/apprentice electrician. All beginning/ apprentice electricians must show proof of certification by the state of Wisconsin and must work under the direct supervision of a licensed or Wisconsin certified journeyman electrician or master electrician, at a ratio not greater than prescribed for apprentices by the Eau Claire area electrical joint apprenticeship committee rules on file with the state of Wisconsin apprenticeship division, the total not to exceed beginning electricians and temporary electricians combined.

C. Journeyman. Each applicant for a license as a journeyman shall prove skill in the installation of electrical wiring for lights, heat and power. Holders of a journeyman's license may perform all types of electrical work on any premises within the city of Eau Claire. All holders of a journeyman's license must perform such work under the direction of a duly licensed master electrician or Wisconsin certified master electrician. Licensing requirements under this section shall apply only to those licenses issued on or before June 30, 1995. Thereafter, anyone seeking to operate in the city as a journeyman electrician must show proof of certification as a journeyman electrician from the state of Wisconsin.

D. Master Electrician. Anyone seeking to operate in the city as a master electrician must show proof of certification by the state of Wisconsin as a certified master electrician or a certified restricted master electrician for the city of Eau Claire.

E. Electrical Contractor. Any person engaged in the business of installing, altering or repairing any electrical wiring, fixtures or apparatus for any purpose whatsoever in the city may be entitled to receive an electrical contractor license. All electrical contractor licensees must:

1. Maintain a recognized place of business;
2. Provide workers' compensation for all employees in accordance with Wisconsin statutes;
3. Possess a Wisconsin electrical contractor-restricted certification for the city of Eau Claire or employ a full-time certified Wisconsin master electrician;
4. Employ only electricians who have obtained either a temporary or annual electrician's license from the city or a certified electrician's license from the state of Wisconsin; and
5. Provide the electrical inspectors with a list of employed electricians.

F. Temporary Licenses.

1. Temporary licenses are available only for individuals employed by a licensed electrical contractor.
2. To protect the safety of the applicant, co-workers and the community, persons licensed under this section must work under the direct supervision of a licensed or Wisconsin certified journeyman electrician or master electrician at a ratio no greater than the ratio prescribed for electrical apprentices by the Eau Claire area electrical joint apprenticeship committee, the total not to exceed beginning electricians and temporary electricians combined. This requirement may be waived if the licensee submits proof of journeyman qualifications or status from another city, state or comparable governmental unit.
3. The contractor must sign the temporary license application unless the licensee submits proof of journeyman qualifications from another city, state or comparable governmental unit.
4. Temporary licenses are valid only for work performed for the signatory contractor.
5. In the event of lay-off, the temporary license is terminated until the licensee is recalled by the signatory contractor or another contractor signs the temporary license. However, only one annual fee will be required. (Ord. 6163 §1, 2001; Ord. 5484 §2, 1995; Ord. 5385 §1, 1994; Ord. 5240 §1, 1992; Ord. 5193 §1, 1991; Ord. 4579 §§1, 2, 3, 1985; Ord. 4185 §1, 1981; Ord. 4105, 1980; Ord. 4046 §2, 1980; Ord. 3997 §§1, 2, 1979; Ord. 4284 §1; Ord. 4284, 1982; prior code §10.04 (b)).

5.12.030 License--Application. A. Application for a license shall be made to the city clerk. The applicant for control wireman shall successfully pass an examination administered by the electrical inspector so as to determine qualifications and competency to engage in the work and duties incidental to the class of license defined in section 5.12.020 A. Licenses under section 5.12.020 A., C. and E. shall be issued by the city clerk. (See section 2.16.030, "City Clerk," for appeal procedure.) Application for a license under s. 5.12.020 F. shall be made to an electrical inspector of the city inspections division. An application fee as stated in the City of Eau Claire Fees and Licenses Schedule shall be paid at the time of application.

B. The electrical inspector shall hold license examination, if there are registered applications, on the third Tuesday after the first Monday in January, April, July and October of each year, commencing at 7:00 p.m. and running until 10:00 p.m. Should the third Tuesday after the first Monday of January, April, July or October fall on a legal holiday, the examination shall be given the following day at the same time. (Ord. 6363 §8, 2002; Ord. 5859 §1, 1998; Ord. 5484 §3, 1995; Ord. 4579 §4, 1985; Ord. 4515 §5, 1984; Prior code §10.04(c)).

5.12.040 Testing--Fees. An applicant for a license as control wireman shall, at the time of filing an application, remit a fee as stated in the City of Eau Claire Fees and Licenses Schedule.

The fee shall be forfeited in case the applicant fails to appear for examination at the time set; provided that in the case of sickness or for other just cause, the electrical inspector may grant the applicant the privilege to appear for the examination at a later date. Such fee shall be forfeited in case the applicant fails to pass the examination. (Ord. 6363 §8, 2002; Ord. 5859 §2, 1998; Ord. 5484 §4, 1995; Ord. 5385 §2, 1994; Ord. 4789 §3, 1987; Ord. 3951 §4(part), 1979; Prior code §10.04(d)).

5.12.050 License--Fees. Licenses shall be required annually, and the license period shall commence on July first of each year and expire on the thirtieth day of June of the following year. The annual license fee shall be as stated in the City of Eau Claire Fees and Licenses Schedule. (Ord. 6363 §8, 2002; Ord. 6163 §2, 2001; Ord. 5484 §5, 1995; Ord. 5385 §3, 1994; Ord. 4789 §3, 1987; Ord. 3997 §3, 1979; Ord. 3951 §4(part), 1979; Prior Code §10.04(e)).

5.12.055 License renewal. A. Notice of renewal.

1. Notice for renewal of a license issued under this subchapter shall be sent to a person holding a valid license no less than 2 months prior to expiration.

2. The renewal notice shall be sent to the address given on the latest license form on file with the city clerk.

3. A person holding a license shall be responsible for notifying the city clerk of any change in mailing address.

4. Failure to receive a notice for license renewal shall not be an excuse for failure to renew.

B. Delinquent or lapsed license. The city clerk may renew a license within 6 months following license expiration upon payment by the applicant of a late renewal fee as stated in the City of Eau Claire Fees and Licenses Schedule. All other renewals of delinquent or lapsed licenses shall require reapplication to again qualify for a license. (Ord. 6363 §8, 2002; Ord. 5385 §4, 1994; Ord. 5240 §2, 1992).

Chapter 5.16

FORTUNETELLERS*

Sections:

5.16.010 Prohibited.

5.16.020 Violation--Penalty.

5.16.010 Prohibited. No person shall engage in carrying on or practicing for a fee, pay or hire in the city the business of a fortuneteller, palmister, astrologer or clairvoyant. (Prior code §15.44).

5.16.020 Violation--Penalty. Any person violating the provisions of this chapter shall, upon conviction thereof, be fined in a sum of not exceeding fifty dollars and costs of prosecution for each offense; provided that each day such business is conducted shall be a separate offense; and in default of payment of said fine and costs the defendant shall be imprisoned in the county jail for not more than thirty days. (Prior code §15.45).

* For provisions of general charter law granting cities the power to license, tax and regulate business enterprises, see WSA 62.11(5).

Chapter 5.20**HOUSE MOVERS*****Sections:**

- 5.20.010 License--Required.**
- 5.20.020 Application.**
- 5.20.030 Permit--Moving conditions.**
- 5.20.040 Moving completion--Street inspection.**
- 5.20.050 License and permit required.**
- 5.20.060 Property interference--Owner notification.**
- 5.20.070 Violation--Penalty.**

5.20.010 License--Required. No person shall pursue the business of housemoving in the city, or move any building or part of a building, unless exempted under s. 5.20.050 B., in, along or across any public street or public ground in the city, unless he or she previously has obtained a license to pursue said business, and a permit to move such building or part thereof as hereinafter provided; but two or more persons constituting a partnership may obtain such license or permit jointly. (Ord. 5399 §1, 1994; Prior code §15.33).

5.20.020 Application. Any person desiring to procure a license as housemover, shall make written application therefor to the city clerk and such license shall be issued by the city clerk, subject to compliance by the applicant with the following requisites:

A. The applicant shall pay to the city treasurer a fee as stated in the City of Eau Claire Fees and Licenses Schedule.

B. The applicant shall file with the city clerk a bond running to the city in the penal sum of five thousand dollars, with one or more sureties, to be approved by the city attorney, conditioned that the applicant, license to him being granted, will, in prosecuting the business of a housemover in the city, conform to all regulations relating thereto which are or may be established by the city council; and that he will promptly repair and make good to the satisfaction of the street commissioner any and all damages to any pavement, sidewalk, crosswalk, hydrant, street or other public property done or caused by himself, his servants or employees in moving any building, or in connection with the moving thereof; and that he will reimburse the city for any expenses the city incurs in connection with moving thereof; and that he will indemnify and keep harmless the city against all liability for damages, costs or expenses arising or which may arise in favor of any person by reason of any negligence or misconduct on his part, or on account of his servants or employees in connection with the moving of any building, or the use of any public street or ground for that purpose. Such license shall be signed by the city clerk, and shall expire in one year from the date of its issue.

C. No person shall be granted a license to engage in the business of house moving without first filing with the city clerk a certificate of an insurance company duly authorized to do business in Wisconsin, certifying that there is in effect an insurance policy insuring the applicant and holding the city and city officials harmless from any and all claims for personal injury or damage to property as follows: for personal injuries: liability insurance in the amount of \$250,000 for each person; and \$500,000 for each accident; for property damage: liability insurance in the amount of \$500,000. (Ord. 6363 §9, 2002; Ord. 5399 §1, 1994; Ord. 4789 §5, 1987; Ord. 4763, 1987; Ord. 4515 §6, 1984; Ord. 4366 §2, 3, 1983; Prior code §15.34).

* For the provisions of general charter law granting cities the power to license, tax and regulate business enterprises, see WSA 62.11(5).

5.20.030 Permit--Moving conditions. A. Before any person shall move any building or part of any building, except as exempted in s. 5.20.050 B., in, along or across any public street or ground in the city, that person shall file an application for moving permit with a city building inspector. A fee for such application as stated in the City of Eau Claire Fees and Licenses Schedule shall be paid to the city treasurer prior to the time that such application is processed. No permit shall be issued by a city building inspector until the application is approved by the chief of police, fire chief, director of parks and recreation, and public works director, or any designees of those individuals. The applicant shall also file a copy of the notice served upon the owners of wires suspended in streets involved in any house moving projects. Such applicant also agrees by the acceptance of a permit to pay any costs related to the removal and reinstallation of such wires.

B. Upon approval of an application, a moving permit shall be issued by a city building inspector. The fee shall be as stated in the City of Eau Claire Fees and Licenses Schedule. Every permit to move a building shall state all conditions to be complied with, designate the route to be taken, the times the operation will take place, and the limit of time for removal. The removal of a building shall be continuous during all hours of the day, and day by day, and at night if the building inspector so orders, until completed, with the least possible obstruction to thoroughfares. The permittee shall provide the police department a minimum of 72 hours notice prior to the scheduled time of the move. No building shall be allowed to remain overnight upon any street crossing or street intersection or so near to any such crossing or intersection as to prevent easy access to any fire hydrant.

C. Any permittee shall be deemed guilty of a new offense for each day any violation of this section shall exist after written notice to abate the same by the building inspector. (Ord. 6363 §9, 2002; Ord. 6233 §1, 2001; Ord. 5399 §1, 1994; Ord. 4789 §5, 1987; Ord. 4366 §4, 1983; prior code §15.35).

5.20.040 Moving completion--Street inspection. Every person receiving a permit to move a building shall, within one day after the building reaches its destination, report that fact to the building inspector who shall with the superintendent of streets thereupon inspect the streets and other public property over which the building has moved and ascertain their condition. If the removal of the building has caused any damage to such streets or public property, the superintendent of streets or other appropriate public official, at the expense of the applicant for permit, shall forthwith repair any such damage, and promptly report the amount thereof to the building inspector, who shall require the payment to the city of such expense in accordance with the permit and bond accompanying the same and make due and promptly report and file the same with the city clerk. (Ord. 4366 §5, 1983; prior code §15.36).

5.20.050 License and permit required. A. Except as provided in subsection B., no person shall move or attempt to move any building or part of any building in, along or across any public street or ground in the city, without having obtained a license as housemover, or without having procured a permit as herein provided.

B. Subsection A. shall not apply to a building or part of a building which is 12 feet or narrower, 13 feet or lower when loaded on a vehicle used for moving, and 200 square feet or smaller. (Ord. 5399 §1, 1994; prior code §15.37).

5.20.060 Property interference--Owner notification. A. Nothing in any license or permit granted pursuant to the provisions of this chapter, shall be construed as authorizing the holder thereof to break, injure or move any telegraph, telephone, electric motor or electric light wire or poles, or in any way to injure any shade tree or other private property without permission from the owner or owners thereof.

B. Whenever it shall be necessary for any authorized person to move in, along or across any of the streets or public places, buildings or structures of such height or size as to interfere with poles or wires erected in such streets or public places, the company, or persons owning or operating the poles and wires shall upon forty-eight hours' written notice served upon any agent or manager of said company or person, by such authorized person, temporarily remove the poles or wires for the free passage of such building or structure; provided, that in case the poles and wires shall not be removed

by the company or person after notice as required by this chapter, the removal of the same may be caused and directed by the city manager or superintendent of streets at the expense of the company or person. The permittee shall be responsible for payment of the actual cost to any company required to perform such work. (Ord. 4366 §6, 1983; prior code §15.38).

5.20.070 Violation--Penalty. A. Any person who violates any of the provisions of this chapter, shall, upon conviction, pay a forfeiture not to exceed five hundred dollars for each and every offense, in addition to the cost of prosecution.

B. If the defendant fails or refuses to pay the forfeiture and costs, the court shall enter a judgment that defendant be imprisoned in the county jail for a term not to exceed three months unless the forfeiture and costs are sooner paid, and every day of violation shall be considered a separate offense. (Ord. 4366 §7, 1983).

Chapter 5.22

HEATING, VENTILATING, AND AIR CONDITIONING (HVAC) CONTRACTOR

Sections:

5.22.010 License--Required--Classifications.

5.22.020 License--Application.

5.22.030 License--Fees.

5.22.040 Insurance--Required.

5.22.050 License--Issuance.

5.22.055 License renewal.

5.22.060 License--Suspension and revocation.

5.22.070 License--Suspension or revocation--Notice--Hearing.

5.22.010 License--Required--Classifications. A. It is unlawful for any person, except as otherwise provided herein, to install, replace or alter any HVAC equipment, including controls, piping, duct, vent, fuel oil tanks and electric connections with such HVAC equipment and appurtenances enumerated in Chapter 16.28 without first having obtained an HVAC contractor's license for such work, as follows (all tanks and piping regulated by COMM Chapter 10 are excluded from this section):

1. A Class "B" license shall be issued to a person desiring to enter into the business of installing gas, oil or coal conversion automatic equipment and controls in existing heating plants, and servicing, cleaning and repair of the above-mentioned equipment, but shall not permit alteration or repair of any parts of the distribution system.

2. A Class "A-1" license shall be issued to a person desiring to enter into the business of installing, altering or repairing of forced air heating, cooling and ventilation equipment.

3. A Class "A-2" license shall be issued to a person desiring to enter into business of installing, altering or repairing steam or hot water equipment.

B. Class "A-1" and "A-2" licensees may engage in work covered under the Class "B" license.

C. The licensing requirements of this section shall not apply to an employee of a city licensed HVAC contractor.

D. The licensing requirements of this section shall not apply to a person who holds a state of Wisconsin HVAC qualifier certification or employees thereof.

E. The licensing requirement of this section shall not apply to the owner of a one-family building who resides therein.

F. Those not required to be licensed by the city shall secure the permit required for any HVAC work and shall comply with all installation standards and tests as required therefor. A homeowner may make such tests and the representative of the city inspection division shall be witness to the fact that such tests were made.

G. Licenses shall be required annually and the license period shall commence on July 1st and expire on June 30th of the following year. (Ord. 6482, 2004; Ord. 6166 §2, 2001; Ord. 5399 §2, 1994; Ord. 4356 §1, 1983; Ord. 3454 §1, 1974; Prior code §1505).

5.22.020 License--Application. Each applicant for an HVAC contractor's license shall maintain a place of business. Application for an HVAC contractor's license shall be upon forms provided by the inspections division and filed with the heating inspector. The same shall recite:

- A. Name, address and telephone number of applicant;
- B. Address of place of business already established or to be established;
- C. Previous experience of the applicant in the HVAC field;

and shall be accompanied by the license examination fee as stated in the City of Eau Claire Fees and Licenses Schedule. The fee shall be forfeited in case the applicant fails to appear for examination at the time set; provided that in the case of sickness or for other just cause, the board may grant the applicant the privilege to appear for the examination at a later date. Such fee shall be forfeited in case the applicant fails to pass the examination.

D. Examinations for HVAC licenses shall be given during the months of January, April, July and October, except as otherwise determined by the board. Applications shall be filed with the heating inspector thirty days prior to the date of examination.

E. The board shall formulate an appropriate examination to test the competency and capabilities of applicants for the class of license applied for. This requirement may be waived by the board upon satisfactory showing that the applicant possesses the requisite capability and competency to perform the work permitted under the class of license applied for and that formal examination therefore is unnecessary. The board of heating examiners, upon being satisfied as to the competency of the applicant, shall authorize the issuance of a license by the city for the classification of HVAC work for which the applicant is qualified. (Ord. 6363 §10, 2002; Ord. 6166 §3, 2001; Ord. 5399 §2, 1994; prior code §1505.1).

5.22.030 License--Fees. If the examination is passed or the applicant receives a waiver, license fees as stated in the City of Eau Claire Fees and Licenses Schedule shall be paid and evidence of insurance submitted. (Ord. 6363 §10, 2002; Ord. 5399 §2, 1994; Ord. 5138 §§1, 2, 1991; Ord. 3454 §2, 1974; Prior code §1505.2).

5.22.040 Insurance--Required. Each HVAC contractor shall maintain insurance for, or provide other proof to the City's satisfaction of, protection against claims under workers compensation acts; claims due to personal injury or death of any employee or any other person; claims due to injury or destruction of property; and claims arising out of errors, omissions, or negligent acts for which the applicant is legally liable. The limits for such insurance shall be as follows: comprehensive general liability for personal (bodily) injury and property damage combined (including contractual liability, products, and completed operations) - \$500,000 per occurrence; auto liability for personal (bodily) injury and property damage - \$500,000 per occurrence. A certificate of insurance showing the amounts and extent of such insurance shall be submitted to the city clerk prior to the issuance of a license. (Ord. 6166 §4, 2001; Ord. 5138 §3, 1991; Prior code §1505.3).

5.22.050 License--Issuance. Licenses shall be granted by the city clerk only upon recommendation of the board. Annual renewal of license may be issued by the city clerk upon recommendation of the board, confirmation of insurance coverage as required under section 5.22.040, and payment of fee. (Ord. 5138 §4, 1991; Ord. 4515 §7, 1984; Ord. 3454 §3, 1974; Prior code §1504.4).

5.22.055 License Renewal. A. Notice of renewal.

1. Notice for renewal of a license issued under this subchapter shall be sent to a person holding a valid license no less than 1 month prior to expiration.
2. The renewal notice shall be sent to the address given on the latest license form on file with the city clerk or subsequent changed address of which notice has been received.
3. A person holding a license shall be responsible for notifying the city clerk of any change in mailing address.
4. Failure to receive a notice for license renewal shall not be an excuse for failure to renew.

B. Delinquent or lapsed license. The city clerk may renew a license within 6 months following license expiration upon payment by the application of a late renewal fee as stated in the City of Eau Claire Fees and Licenses Schedule. All other renewals of delinquent or lapsed licenses all require examination to again qualify for a license. (Ord. 6363 §10, 2002; Ord. 5399 §2, 1994).

5.22.060 License--Suspension and revocation. Licenses shall be subject to suspension or revocation for violation by the licensee of any provision or requirement of this chapter and Chapter 16.28. The following violations shall be deemed grounds for suspension or revocation of licenses:

- A. Misrepresentation of a material fact in obtaining a license or a renewal thereof;
- B. Use of such license in obtaining a work permit for another;
- C. Failure to secure the permits, inspections and approvals required by this chapter and Chapter 16.28;
- D. Repeated violations of this chapter and Chapter 16.28, or failure or refusal to promptly correct any installation or part thereof made in an incompetent or improper manner when requested to do so by the inspector;
- E. Flagrant violation of city codes and standards with respect to work performed or sales made under a license;
- F. Or on such other grounds not herein enumerated as may seem good and sufficient to the board. (Ord. 3454 §4, 1974; prior code §1505.5).

5.22.070 License--Suspension or revocation--Notice--Hearing. A. Notice of suspension or revocation shall be given licensees in writing by the board. The same shall be deposited in the mail addressed to licensee and sent by registered mail with return receipt requested. The notice shall recite that a hearing will be had not less than five days thereafter, at a designated place in the City Hall, to consider such suspension or revocation. At the hearing licensee may appear in his/her own behalf or be represented by legal counsel.

B. The board shall make its determination upon such suspension or revocation within forty-eight hours thereafter, and shall forward a copy of such decision to the licensee forthwith by registered mail. A decision by the board may be appealed to the council. (Ord. 5399 §2, 1994; prior code §1505.6).

Chapter 5.24

JUNK DEALER*

Sections:

- 5.24.010 State statutes adopted.**
- 5.24.020 Definitions.**
- 5.24.030 License--Required.**
- 5.24.040 License--Fee--Additional licenses.**
- 5.24.050 License--Term--Conditions.**
- 5.24.060 License--Revocation--Suspension--Appeal.**
- 5.24.070 License--Display.**
- 5.24.075 Junk hauling regulations.**
- 5.24.080 Junk storage regulations.**
- 5.24.090 Violation--Penalty.**

* For statutory provisions regarding junk dealers' receiving property from children, see WSA 943.35; for provisions regarding dealers in junked automobiles, see WSA 175.25.

5.24.010 State statutes adopted. The provisions of Sections 175.25 and 943.35 of the Wisconsin Statutes and also all acts amendatory thereof and supplementary thereto relative to storage and sale of and the business of dealing in junk and junked automobiles are adopted as a portion of this chapter as far as possible, exclusive of the penalty provisions therein provided for which the penalties provided in this chapter of the municipal code shall be substituted, and except as otherwise lawfully provided by city ordinance. (Prior code §15.135).

5.24.020 Definitions. A. "Automobile junk" means any junked automobile or part thereof accumulated for storage or stored outside of any building, but shall not include the temporary storage of automobiles no longer than required for the making of accident settlements, where no salvage, dismantling, demolition or abandonment of such automobiles occurs, and the automobiles are ultimately transferred to an automobile junk dealer, or to another entity for repair.

B. "Automobile junk dealer" means a person, firm, partnership or corporation which accumulates or stores any junked automobile or part thereof outside of any building.

C. "Junk" means rags, metal, glass, paper, cardboard, packaging, or other similar material.

D. "Junk dealer" means a person, other than a person required to be licensed under Chapter 8.32, who engages in, keeps, conducts or carries on a business for the purpose, collection and sale of junk, which is not thereafter disposed of in a landfill. (Ord. 5188 §1, 1991; Ord. 4232, 1981; Ord. 4038 §1, 1979; prior code §15.136).

5.24.030 License--Required. It is unlawful for any person, firm, partnership or corporation to operate as a junk dealer or automobile junk dealer or to travel from place to place within the city limits for the purpose of buying, selling or trading in junk, or for the purpose of accumulating automobile junk, at any place within the corporate limits of the city without first obtaining a license therefor as hereinafter provided. No premises may be maintained in connection with such operation except within an industrial zone according to the zoning ordinances of the city. Licensing shall not be required for occasional operations conducted by any person whose real property is exempt, in whole or in part, from real property taxation within the state by virtue of Wisconsin Statutes Section 70.11. (Ord. 4038 §2, 1979; Prior code §15.137).

5.24.040 License--Fee--Additional licenses. The license fee hereunder shall be as stated in the City of Eau Claire Fees and Licenses Schedule. Separate licenses shall be required for each shop or yard maintained on separate premises. In addition separate licenses shall be required for each person on foot and each cart, wagon, vehicle or motor vehicle traveling from place to place within the city for the purpose of purchasing or selling or soliciting the purchase or sale of junk, or for the purpose of accumulating automobile junk; provided, however, that the provisions of this section shall not apply to persons and vehicles employed by said dealers exclusively for the purpose of receiving or delivering as distinguished from purchasing, selling or soliciting, as set out above. (Ord. 6363 §11, 2002; Ord. 6233 §2, 2001; Ord. 4789 §6, 1987; Ord. 3951 §6, 1979; Prior code §15.138).

5.24.050 License--Term--Conditions. A. The license year shall run from July 1st to June 30th. Applications for licenses hereunder shall be filed, together with the license fee, with the city clerk, on or before April 1st of each year, for the license year beginning the following July 1st; except that applications for the license year ending June 30, 1949, shall be so filed within thirty days after passage and publication hereof.

B. All licenses issued hereunder shall be issued by the city clerk and shall limit the area and specify the locations of the premises licensed.

C. No license issued hereunder shall be transferred or the area on which operations are authorized to be conducted shall be changed.

D. No licensee hereunder shall purchase any junk or automobile junk as herein defined, except old rags and waste paper from any minor under eighteen years of age, without the written consent of parent or guardian. (Ord. 4515 §8, 1984; Prior code §15.139).

5.24.060 License--Revocation--Suspension--Appeal. Any license issued hereunder may be revoked or suspended at any time by a duly authorized city official upon administrative determination that the licensee has failed or refused to comply with the provisions of this chapter, state or federal rules, regulations, or laws. Appeal from the afore stated determination shall be made to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board. (Ord. 6572 §2, 2005; Prior code §15.140).

5.24.070 License--Display. Each person so licensed as aforesaid traveling on foot and each driver of a licensed cart, wagon, vehicle or motor vehicle shall have with him when driving or traveling on foot, the license so issued, and shall exhibit the same to any police officer or other officer or any member of the city council when requested. It is unlawful for any such licensee or driver to transact any business as herein described without having the license in his or her possession; and each licensed junk dealer and automobile junk dealer shall display said license at all times in a conspicuous place in his place of business. (Prior code §15.141).

5.24.075 Junk hauling regulations. Any truck, wagon or other vehicle used in collecting or hauling junk or automobile junk shall be of such construction and shall be operated so that there is no spilling, dropping or scattering of any material therefrom along the streets, alleys or public ways of the city. (Ord. 4038 §3, 1979).

5.24.080 Junk storage regulations. A. Unbaled paper and tags shall be stored at all times inside enclosed buildings.

B. Junk and automobile junk shall be stored at all times as follows:

1. When stored outside of enclosed buildings:

a. Fenced from view of persons walking or riding upon adjacent sidewalks or streets, said fences being of standard design, construction and finish and certified as having been approved by the city building inspector;

b. Neatly arranged in rectangular rows, all materials being easily accessible, such rows being separated according to type of material contained therein;

2. When stored inside enclosed building in compliance with the Wisconsin State and city of Eau Claire building codes and in compliance with applicable provisions of law and ordinance. (Prior code §15.142).

5.24.090 Violation--Penalty. Any person violating any of the provisions hereof shall, on conviction thereof, forfeit not exceeding two hundred dollars for each violation together with the costs of prosecution, and in default of the payment of such forfeiture and costs shall be imprisoned in the county jail of Eau Claire County for a term of not more than thirty days. Each day that a violation of this chapter continues shall be deemed a separate offense. (Ord. 4201, 1981; Prior code §15.143).

Chapter 5.26

CABARET LICENSE*

Sections:

- 5.26.010 License required for liquor sale.**
- 5.26.020 Class A cabaret license.**
- 5.26.030 Class B cabaret license.**
- 5.26.040 License--Term.**
- 5.26.050 License--Revocation--Suspension--Appeal.**
- 5.26.060 License--Application.**
- 5.26.070 License--Conditions.**
- 5.26.080 Civic Center exemption.**
- 5.26.090 Violation--Penalty.**

5.26.010 License required for liquor sale. No person, firm or corporation licensed to sell fermented malt beverages or intoxicating liquors shall offer, suffer or permit in the place for which the license is granted any dancing, whether public or private, or exhibitions, singing, live music, or other entertainment of any nature whatsoever, except amateur, without having first complied with the terms of this chapter relating to same and having procured a license so to do. All licenses shall be subject to inspection to insure continual compliance with the terms of this chapter. (Ord. 5954 §1, 1999; Prior code §15.170 A(part)).

5.26.020 Class A cabaret license. A class A cabaret license, when issued by the city clerk under authority of the city council, shall entitle the holder thereof to give, permit, produce, present, conduct and offer entertainment or exhibitions consisting of music, dancing, singing, floor shows and cabaret performances only upon the licensed tavern premises. The fee for such class A cabaret license shall be as stated in the City of Eau Claire Fees and Licenses Schedule. (Ord. 6363 §12, 2002; Ord. 3951 §7(part), 1979; Prior code §15.170 A(1)).

5.26.030 Class B cabaret license. A class B cabaret license, when issued by the city clerk under the authority of the city council, shall entitle the holder thereof to engage in all of the activities permitted under a class A cabaret license, except that the holder of a class B cabaret license shall not permit any dancing on the licensed premises by any person other than entertainers. The fee for a class B cabaret license shall be as stated in the City of Eau Claire Fees and Licenses Schedule. (Ord. 6363 §12, 2002; Ord. 3951 §7(part), 1979; Prior code §15.170 A(2)).

5.26.040 License--Term. All class A and class B cabaret licenses shall expire on the thirtieth day of June thereafter, and the full license fee shall be charged for the whole or fraction of a year. Such license may in the discretion of the city council be transferred to a new location upon the payment of a transfer fee as stated in the City of Eau Claire Fees and Licenses Schedule. The new premises must comply in all respects with all provisions of this chapter as if a new application were being made. This same provision shall apply whenever a change of agent of a corporation occurs, and such cabaret license may in the discretion of the city council be transferred to the new agent upon the payment of the prescribed fee. (Ord. 6363 §12, 2002; Prior code §15.170 B).

* For provisions of general municipality law regarding sale of nonintoxicating beverages, see WSA 66.053; for provisions regarding licenses to sell fermented malt beverages, see WSA 125.04; for provisions regulating intoxicating liquors generally, see WSA 125.

5.26.050 License--Revocation--Suspension--Appeal. Any license issued hereunder may be revoked or suspended by the city clerk upon administrative determination that the licensee has failed or refused to comply with the provisions of this chapter, for disorderly or illegal conduct on the premises, or for violation of the rules, regulations, or laws governing or applying to cabaret premises or premises licensed to sell intoxicating liquor. Appeal from the afore stated determination shall be made to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board. (Ord. 6572 §3, 2005; Ord. 5954 §2, 1999; Prior code §15.170 C).

5.26.060 License--Application. No license shall be granted hereunder unless the person or corporation desiring the same shall first have paid the fee therefor and shall have filed with the city clerk a written application therefor under oath and on forms to be furnished by the city clerk, designating the kind of license applied for, the address and description of the premises for which the license is desired, and such other information as may be required to insure compliance with this chapter, state law or such as may be required by the city council. No license shall be granted under this chapter, however, unless the city council shall, by vote of a majority of the council present and voting at any regular or special meeting called for such purpose, have authorized the same. (Prior code §15.170 D).

5.26.070 License--Conditions. No class A or class B cabaret shall be licensed, maintained or operated except in conformity with the following regulations; excepting the provisions of Section 5.26.020 which apply only to class A cabarets. Violation of any of the following conditions shall be cause for suspension or revocation of such license:

A. Efficient means shall be employed to prevent the ordinary sounds of music, dancing, singing or entertainment within the cabaret from being heard on adjoining premises or on the public street consistent with the dictates of s. 9.56.070. Any entertainment or exhibitions held under this chapter must be conducted within the enclosed building of the licensed establishment unless otherwise approved by the city council.

B. All cabarets shall be reasonably lighted at all times when any patrons shall be therein, and at all times when the same is open to the public.

C. Every cabaret shall be closed to the public and no patron shall be therein at times the licensed establishment is required to be closed pursuant to s. 125.68(4)(c), Wis. Stats.

D. No minor under the age of eighteen years shall be permitted in any cabaret unless accompanied by parent or guardian.

E. Upon request, the licensee shall provide the name, address and date of birth of each entertainer who is to perform in a dance ballet, or floor show where the majority of the performer's act consists of dancing, to the city police department or any police officer thereof.

F. The licensee shall ensure that no entertainer or exhibitor violates any provision of chapter 8.07.

G. No person who is intoxicated shall be served with any beverage containing alcohol or be permitted to dance in any cabaret.

H. Every cabaret shall be provided with separate isolated toilets and lavatory facilities for each sex, which shall be constructed and maintained in a sanitary condition in conformance with the laws of the state, the provisions of this chapter, and regulations of the health department.

I. There shall be in every cabaret premises not less than two doors for exits leading to the outside, each not less than three feet in width and opening outward.

J. The sale, service or consumption of commodities for which licenses are otherwise required shall not be permitted in any cabaret unless the proper license or licenses therefor are obtained for the premises in the name of the owner or manager of such cabaret.

K. As a condition of licensing, the licensee shall permit free and unobstructed access to the premises when licensed premises are open to the public, by police officers while acting on official duty. (Ord. 5954 §3, 1999; Ord. 3733 §§1, 2, 3(part), 1977; prior code §15.170 E).

5.26.080 Civic center exemption. This chapter shall not apply to the Eau Claire Municipal Civic Center, 210 South Farwell Street. (Ord. 3615 §2, 1976).

5.26.090 Violation--Penalty. Any person who violates any provision of this chapter shall, upon conviction, be subject to a forfeiture of not exceeding one hundred dollars for each offense. (Ord. 3733 §3(part), 1977).

Chapter 5.28

ALCOHOL BEVERAGES

Sections:

I. General Provisions

- 5.28.010 State statutes adopted.**
- 5.28.020 License application--Inspection and report.**
- 5.28.025 Application filing dates.**
- 5.28.030 General license regulations.**
- 5.28.032 "Class B" license for sale of intoxicating liquor.**
- 5.28.035 Presence of underage persons on premise.**
- 5.28.037 Sidewalk cafes in the downtown and Water Street areas.**
- 5.28.040 License granting.**
- 5.28.060 License--Revocation upon abandonment of premises.**
- 5.28.070 License--Display on premises.**
- 5.28.080 Health and sanitary requirements.**
- 5.28.090 Operator's license.**
- 5.28.095 Mandatory operator's training.**

II. Fermented Malt Beverages

- 5.28.100 License fees.**

III. Intoxicating Liquor

- 5.28.110 License fees.**

IV. Penalty

- 5.28.130 Penalty.**

5.28.010 State statutes adopted. A. The provisions of Chapter 125 of the Wisconsin Statutes, insofar as the same are applicable, are made a part of this chapter with the same force and effect as those set forth verbatim herein. Any amendments to that Chapter shall be adopted by reference as if they were fully set forth herein. (Ord. 5096, 1990; Ord. 5064, §2, 1990; Ord. 4796 §1, 1987; Ord. 4481 §1, 1984).

5.28.020 License application--Inspection and report. The city clerk shall notify the chief of police, health officer, chief of the fire department and building inspector of an application for a license to be issued under this chapter, and these officials shall inspect, or cause to be inspected each application and the premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the city council in writing the information derived from such investigation. No license shall be renewed without a reinspection of the premises and written report to the city council thereon. (Ord. 4481 §1, 1984).

5.28.025 Application filing dates. All applications for licenses issued under section 125.26(6) of the Wisconsin Statutes shall be filed with the clerk of the city of Eau Claire at least 5 days prior to the granting of the license. The city council may waive this requirement under circumstances it deems sufficient. (Ord. 4854, 1988; Ord. 4737, 1987).

5.28.030 General license regulations. A. No alcohol license available under this chapter shall be issued for premises, the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church, without council approval. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of said school, church or hospital, to the main entrance to such premises.

B. Paragraph A shall not apply to bona fide clubs, hotels or premises with restaurant capacity and facilities to serve more than 50 seated patrons.

C. Each premises for which a license is granted under this chapter must be connected with and have at all times, city water and sewage facilities and must be properly lighted and ventilated.

D. Closing hours for Class "B" (licensed taverns) shall conform with the requirements of section 125.32(3) of the Wisconsin Statutes.

E. No premises for which a Class "A" or a "Class A" Retailers License is issued shall be permitted to remain open for the sale of fermented malt beverages between the hours of 9:00 p.m. and 8:00 a.m.

F. All alcohol beverages shall be sold, dispensed, given away or furnished entirely within and upon the licensed premises, and no alcohol beverages shall be sold, dispensed, given away or furnished to any person not upon the licensed premises, by means of a drive-up or walk-up window or similar facility.

G. Between the hours of 12:00 midnight and 8:00 a.m., no person may carry out, nor may any person permit the carry-out from any establishment licensed under this chapter, any alcohol beverages for consumption away from the premises.

H. No "Class A" liquor store license available under this chapter shall be issued for any premise which is located less than 500 feet from an already existing "Class A" liquor store licensed under this chapter. 500 feet shall be measured from the closest entrance of one premise to the closest entrance of the other premise.

I. All alcohol beverages on a "Class A" licensed premise shall be sold only on said premises by employees of the licensee.

J. Each "Class A" licensed premise shall be effectively separated from any unlicensed premise in the manner as approved or prescribed by the city council.

K. Between the hours of 9:00 p.m. and 8:00 a.m., or on Sundays before 12:00 noon, no person may purchase or carry out, nor may any person sell or permit the carry out from any establishment licensed under this chapter, any receptacle containing fermented malt beverages in excess of 1 gallon in volume. (Ord. 5433, 1994; Ord. 5306, 1993; Ord. 5089, 1990; Ord. 4796 §2, 1987; Ord. 4786 §§1, 5, 1987; Ord. 4481 §1, 1984).

5.28.032 "Class B" license for sale of intoxicating liquor. The city elects to come under the provisions of Wis. Stats. s. 125.51(3)(b), providing that a retail "Class B" license authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold and also authorizes the sale of intoxicating liquor in the original package or container, in multiples not to exceed 4 liters at any one time, and to be consumed off the premises where sold. Wine may be sold for consumption off the premises in the original package or otherwise in any quantity. (Ord. 4781, 1987).

5.28.035 Presence of underage persons on premise. A. Underage persons who are not accompanied by a parent, legal guardian or spouse who has attained the legal drinking age may enter and remain in a room on a Class "B" or "Class B" licensed premise which is separate from any room where alcohol beverages are sold or served if:

1. No alcohol beverages are furnished or consumed by any person in the room where the underage person is present, and

2. The Class "B" or "Class B" licensee obtains a written authorization from the Police Department of the City of Eau Claire permitting underage persons to be present on a specified date set forth in the authorization. Prior to the issuance of any authorization, the Police Department shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. Licensees shall obtain a separate authorization for each date on which underage persons will be present on the premises.

B. The presence of underage persons on a licensed premise authorized by subsection A. above or s. 125.07(3)(a)10 of the Wisconsin Statutes shall be subject to the following restrictions and requirements:

1. Each application must be received at least five business days prior to the date requested.

2. During the period of time when underage persons are permitted on premise, persons entering the premise or that portion of the licensed premise shall be restricted to those individuals between the ages of 16 and 20, inclusive. This restriction shall not apply to parents, guardians, employees of the establishment, police officers, city officials or anyone else authorized by the licensee to enter said premises.

3. No person shall be admitted to a licensed premise during the period of authorization if it is determined that that person has been drinking alcohol beverages or been using any other drugs not prescribed and taken in accordance with instructions from a licensed physician.

4. People attending events authorized under subsection A. must be provided with restroom facilities separate from those being used by individuals present on other portions of the licensed premise where alcohol beverages are being served, sold or consumed.

5. There shall be at least one chaperon of each sex present during authorized time periods. Chaperons shall be at least 21 years of age. Service personnel shall not qualify as chaperons.

6. The Police Department may refuse to authorize underage presence on premises under subsection A. if the following has occurred:

1. The applicant has violated any of the provisions of this section.

2. The applicant has failed to comply with the information contained on a prior application.

3. Laws of the City of Eau Claire or the State of Wisconsin were violated during a previously authorized date of operation.

4. Events have taken place on a prior authorized date or dates which make the Police Department unable to further certify that the presence of underage persons on the licensed premise will not endanger their health, welfare, or safety or that of other members of the community. (Ord. 5215, 1992; Ord. 4663, 1986).

5.28.037 Sidewalk cafes in the downtown and Water Street areas. A. Introduction and definitions. No holder of a "Class B", Class "B", and/or "Class C" license may operate under said license(s) in a sidewalk cafe, as defined in s. 13.12.062 B., in the downtown and Water Street areas, without first having obtained approval of the city council, subject to the conditions of this section. Approval under this section by the city council shall result in the sidewalk cafe becoming a part of the licensed premise, with the sidewalk cafe also being subject to all state and city laws, rules, regulations, and lawful order governing "Class B", Class "B", or "Class C" licenses.

B. Application. A request for expansion of the licensed premises to include a sidewalk cafe shall be made in writing to the city clerk. The request shall also include a completed application for the sidewalk cafe and site plan per s. 13.12.062 D.

C. Requirements. Sidewalk cafes approved under this section shall be subject to the following requirements. City council may impose additional requirements at its discretion.

1. The service and consumption of alcohol beverages in the sidewalk cafe shall be limited to the hours of operation of the sidewalk cafe per s. 13.12.062 F. 13.

2. Alcohol beverages shall only be served to patrons of the establishment by a server in the sidewalk cafe. There shall be no carry-out or carry-in of alcohol beverages by the patron to and from the sidewalk cafe.

3. Patrons of the establishment in the sidewalk cafe shall remain seated at the table when consuming alcohol beverages.

4. Alcohol beverages shall only be served to patrons of the establishment with food service in the sidewalk cafe.

5. Compliance with all city and state alcohol related laws, rules, and regulations.

D. Responsibility of licensee. The license holder shall, in addition to all other requirements of the law, the city liquor license, and this section, take reasonable steps to ensure that alcohol beverages are consumed only by patrons of the establishment who are of legal drinking age, and not by passersby or persons who are not of age or who are obviously intoxicated. Reasonable steps may include, but not be limited to, the use of portable barriers or fences, supervision of the outside area by security and staff personnel, or surveillance electronic monitors. Failure to take reasonable steps and use them at all times in the sidewalk cafe is grounds for suspension or revocation of the sidewalk cafe permit under s. 13.12.062 I.

E. Responsibility of patrons. No person shall leave the sidewalk cafe area listed in the permit with an alcohol beverage. Any person doing so shall be in violation of city ordinance s. 9.52.030 prohibiting the consumption of alcohol or possession of open containers on streets.

F. Suspension or revocation. In the event a sidewalk cafe permit is suspended or revoked under s. 13.12.062 I., service of alcohol in the sidewalk cafe area shall not be permitted.

G. Approval by city council. Approval by the city council of the sidewalk cafe as part of the licensed premise shall not be granted or renewed under this section without a valid sidewalk cafe permit. (Ord. 6587, 2005).

5.28.040 License granting. The city council may, upon granting a license under this chapter, impose conditions upon the license which limit or restrict operations under the license. If any licensee shall fail or neglect to meet the requirements imposed by such restrictions and regulations, the license may be suspended or revoked, pursuant to s. 125.12, Wisconsin Statutes. Upon the approval of the license application by the city council, the city clerk shall upon the payment to the city treasurer of the license fee herein provided and upon verification that the applicant is in compliance with applicable laws, rules and regulations, issue to the applicant a license as provided in the chapter. (Ord. 5419 §1, 1994; Ord. 5352 §2, 1993; Ord. 4481 §1, 1984).

5.28.060 License--Abandonment or non-use. The alcohol beverage license for any premises which is abandoned, as defined herein, shall be subject to revocation by the city council as provided in section 125.12, Wisconsin Statutes. In this section, "abandoned" shall mean a continuing refusal or failure of the licensee to use the license for the purpose or purposes for which the license was granted by the city council for a period of 90 days or more. (Ord. 6159, 2001; Ord. 6112, 2000; Ord. 5432, 1994; Ord. 5419 §2, 1994; Ord. 4481, 1984).

5.28.070 License--Display on premises. Every person licensed in accordance with the provisions of this chapter shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale. It is unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the

application, except on approved transfer of location, or to knowingly deface, alter or destroy such license. Whenever a license shall be lost or destroyed a duplicate license in lieu thereof under the original application may be issued by the city clerk when satisfied as to the facts relating thereto. (Ord. 4481, 1984).

5.28.080 Health and sanitary requirements. Each licensed premises shall be conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used. The board of health of the city is authorized and empowered to make reason-able and general rules for the sanitation of all places of business possessing a license under this chapter. Such rules or regulations may be classified and made applicable according to the class of business conducted. All such rules and regulations shall have the same force as this chapter and infraction thereof may be punished as a violation of this chapter. (Ord. 4481, 1984).

5.28.090 Operator's license. A. A beverage operator's license as provided by Chapter 125 of the Wisconsin Statutes may be granted by the city council upon the payment of a fee as stated in the City of Eau Claire Fees and Licenses Schedule. A written application provided by the city clerk shall be filed with the city clerk's office and completed in full. The application shall be referred to the chief of police for a background report on the applicant and a recommendation on the granting of the license. A person must be 18 years of age in order to be eligible for an operator's license.

B. The city council shall grant an operator's license pursuant to this section to such applicants per the determination of the city clerk or the administrative review board under ch. 1.06. Said license shall expire on the second June 30th following the date of issuance. The license fee under this section shall be paid to the city treasurer. Each operator's license shall be posted in a conspicuous place in the room or place where alcohol beverages are poured, served, consumed or removed for service or sale.

C. The city clerk or the city clerk's designee shall issue a provisional beverage operator's license subject to the following conditions:

1. A provisional license may be issued only to a person who has applied for a regular beverage operator's license as provided by subsections A and B of this section.

2. A provisional license may not be issued to any person who has been denied a regular beverage operator's license by the city clerk or administrative review board.

3. A provisional license shall expire 60 days after its date of issuance, or when a regular beverage operator's license is granted by the council and issued to the holder, whichever is sooner.

4. The fee for a provisional beverage operator's license shall be included in the fee paid for an operator's license under subsection A. of this section.

5. Prior to issuance of the provisional license, the clerk or that person's designee shall provide the police department with a copy of the application and the police department shall then make a background check on the license holder and report the results and make a recommendation to the clerk's office.

6. The city clerk or that person's designee, upon recommendation of the chief of police, may deny or revoke the provisional license if it is discovered that the holder of the license made a false statement on the application.

7. The city clerk or that person's designee, upon recommendation of the chief of police, may deny or revoke the provisional license of any person when it is determined that that person's criminal or civil conviction record substantially relates to the duties and circumstances of a beverage operator's position.

8. Any person whose provisional license is denied or revoked by the clerk shall have the right to appeal that denial or revocation to the administrative review board under ch. 1.06.

9. No person shall be issued more than 3 provisional licenses in any 2-year period.

D. A regular beverage operator's license issued hereunder may be revoked or suspended by the city clerk for reasons provided under subsections C. 6. or C. 7 of this section. An appeal of said revocation or suspension may be made under ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board. (Ord. 6572 §4, 2005; Ord. 6363 §13, 2002; Ord. 6233 §3, 2001; Ord. 5687, 1997; Ord. 5586, 1996; Ord. 4962, 1989; Ord. 4789 §7, 1987; Ord 4764, 1987; Ord. 4676, 1986; Ord. 4525 §1, 1984; Ord. 4481, 1984).

5.28.095 Mandatory operator's training. A. All persons applying for, or presently licensed as beverage operators in any establishment licensed under this chapter, shall complete a mandatory alcohol awareness and training program approved by the city council. The completion of such course shall be pursuant to the following schedule:

1. Individuals applying for a license prior to June 30, 1985 may be licensed without completion of the approved program. However, no new licenses or license renewals shall be granted by the council or issued by the city clerk subsequent to June 30, 1985 unless the applicant shows to the satisfaction of the city clerk that he or she has completed the approved training program. Individuals who have been issued a provisional operator's license are exempt from this requirement. However, those individuals must complete the course within 60 days after the date of issuance of that provisional license.

B. Where application is made for a Class "A" or Class "B" license on behalf of a sole proprietorship, the sole proprietor shall successfully complete the program within the time stated. Where such application is made on behalf of a partnership, all partners shall successfully complete the program within the time stated. Where such application is made on behalf of a corporation, the registered agent shall successfully complete the program within the time stated.

C. A separate course program shall be established for those individuals performing or proposing to perform as operators in an establishment operating a Class "A" license. Any person who completes such a program shall have an appropriate endorsement recorded and placed on his or her license and shall be eligible as an operator only in establishments operating under a Class "A" license.

D. Participants in the approved training programs shall pay a tuition fee as stated in the City of Eau Claire Fees and Licenses Schedule. Changes in the curriculum, content or hours of the approved programs may be made without consent of the city council, provided that such changes are approved by the chief of police and the city attorney's office. (Ord. 6363 §13, 2002; Ord. 4525 §2, 1984; Ord. 4512, 1984; Ord. 4498, 1984; Ord. 4481, 1984).

II. Fermented Malt Beverages

5.28.100 License fees. License fees for the sale or distribution of fermented malt beverages shall be as stated in the City of Eau Claire Fees and Licenses Schedule. (Ord. 6363 §13, 2002; Ord. 6233 §3, 2001; Ord. 4487, 1984; Ord. 4481, 1984).

III. Intoxicating Liquor

5.28.110 License fees. License fees for the sale or distribution of intoxicating liquor shall be as stated in the City of Eau Claire Fees and Licenses Schedule. (Ord. 6363 §13, 2002; Ord. 6233 §3, 2001; Ord. 6018, 2000; Ord. 5784 §1, 1997; Ord. 4789 §7, 1987; Ord. 4786 §2, 1987; Ord. 4481, 1984).

IV. Penalty

5.28.130 Penalty. Any person who violates any of the provisions of this chapter shall, upon conviction: A. Forfeit the sum provided by Chapter 125 of the Wisconsin Statutes for a violation of any provision of that chapter adopted by reference herein.

B. Forfeit not more than \$500 for violation of any other provision of this chapter, or violation of any condition included on a license application or upon the license, and in default of the payment thereof, be imprisoned in the county jail for a period not to exceed 90 days.

C. Any license issued under the provisions of this chapter shall be subject to suspension or revocation as provided by Chapter 125 of the Wisconsin Statutes. (Ord. 5352 §3, 1993; Ord. 4481, 1984).

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Chapter 5.34

DIRECT SELLERS

Sections:

- 5.34.010 Registration required.**
- 5.34.020 Definitions.**
- 5.34.025 Shows and exhibitions.**
- 5.34.030 Exemptions.**
- 5.34.040 Registration.**
- 5.34.050 Investigation.**
- 5.34.060 Appeal.**
- 5.34.070 Regulation of direct sellers.**
- 5.34.080 Records.**
- 5.34.090 Revocation of registration--Appeal.**
- 5.34.100 Penalty.**
- 5.34.110 Severance clause.**

5.34.010 Registration required. It shall be unlawful for any direct seller to engage in direct sales within the city of Eau Claire without being registered for that purpose as provided herein. (Ord. 4394 §1, 1983).

5.34.020 Definitions. In this ordinance: A. "Direct Seller" means any individual who, for him/herself, or for a partnership, association or corporation, sells goods or services, or takes sales orders for the later delivery of goods or services, at any location other than the permanent business place or residence of said individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods or services includes donations required by the direct seller for the retention of goods or services by a donor or prospective customer.

B. "Permanent merchant" means a direct seller who, for at least one year prior to the consideration of the application of this ordinance to said merchant, a) has continuously operated an established place of business in this city, or b) has continuously resided in this city and now does business from his/her residence. The term shall also include a merchant conducting business during a holiday season in the city for a continuous period of 8 weeks or longer.

C. "Goods" shall include personal property of any kind, and shall include goods provided incidental to services offered or sold.

D. "Charitable organization" shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.

E. "Clerk" shall mean the city clerk.

F. "Services" shall include but not be limited to any act, work, assistance, advice or consultation provided for another for pay or other consideration. (Ord. 4980, 1989; Ord. 4394 §1, 1983).

5.34.025 Shows and exhibitions. An individual exhibitor offering goods for sale at a show or exhibition shall not be deemed to be a direct seller if the sponsor of the show or exhibition registers with the city clerk as provided in this chapter and files with the clerk a list of the names and addresses of exhibitors. (Ord. 4547, 1985).

5.34.030 Exemptions. The following shall be exempt from all provisions of this ordinance: A. Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;

B. Any person selling goods at wholesale to dealers in such goods;

C. Any person selling agricultural products which such person has grown;

D. Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business;

E. Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, said person;

F. Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;

G. Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;

H. Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the clerk proof that such charitable organization is registered under sec. 440.41, Stats. Any charitable organization not registered under sec. 440.41, Stats., or which is exempt from that statute's registration requirements, shall be required to register under this ordinance;

I. Any person who claims to be a permanent merchant, but against whom complaint has been made to the clerk that such person is a transient merchant; provided that there is submitted to the clerk, proof that such person has leased for at least one year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this city for at least one year prior to the date complaint was made;

J. Any person who acts as a direct seller at a private, non-public premise, provided that another person, corporation, partnership, association or other entity has properly registered with the city of Eau Claire pursuant to the terms of this chapter, and where the "license" of such registrant is posted in a place on the premises clearly visible to the public. (Ord. 4455 §1, 1984; Ord. 4394 §1, 1983).

5.34.040 Registration. A. Applicants for registration must complete and return to the clerk a registration form furnished by the clerk which shall require the following information:

1. Name, permanent address and telephone number, and temporary address, if any;
2. Age, height, weight, color of hair and eyes;
3. Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
4. Temporary address and telephone number from which business will be conducted, if any;
5. Nature of business to be conducted and a brief description of the goods offered, and any services offered;
6. Proposed method of delivery of goods, if applicable;
7. Make, model and license number of any vehicle to be used by applicant in the conduct of his/her business;
8. Last cities, villages, towns, not to exceed three, where applicant conducted similar business;
9. Place where applicant can be contacted for at least seven days after leaving this city;
10. Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years; the nature of the offense and the place of conviction.

B. Applicants shall present to the clerk for examination:

1. A driver's license or some other proof of identity as may be reasonably required;
2. A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
3. A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.

C. At the time the registration is returned, a fee as stated in the City of Eau Claire Fees and Licenses Schedule shall be paid to the clerk to cover the cost of processing said registration and other incidental costs. The applicant shall sign a statement appointing the clerk his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally. Upon payment of said fee and the signing of said statement, the clerk shall register the applicant as a direct seller and date the entry. Said registration shall be valid for a period of seven days from the date of entry, subject to subsequent refusal as provided in Sec. 5.34.050 (B) below.

D. At the time of registration, the clerk shall issue a numbered registration form entitled "license" to each applicant. If the applicant's business is to be conducted at only one location, said license must be displayed at all times such business is conducted in a place clearly visible to the public. All applicants who will conduct their business from place to place in the city shall also be issued a numbered paper license which must be displayed on their person in a place which is clearly visible to the public, during all times that they conduct such business. (Ord. 6363 §14, 2002; Ord. 4455 §§2, 3, 1984; Ord. 4394, 1983).

5.34.050 Investigation. A. Upon receipt of each application, the clerk may refer it immediately to the chief of police who may make and complete an investigation of the statements made in such registration.

B. The clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate

statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; the applicant failed to comply with any applicable provision of Sec. 5.34.040 B. above; the applicant has failed to provide the clerk with a printed copy of the form required by Sec. 423.203 of the Wisconsin Statutes where necessary; or the applicant has failed to provide the clerk with the Wisconsin Department of Revenue tax number where applicable. (Ord. 4639, 1986; Ord. 4394 §1, 1983).

5.34.060 Appeal. Any person denied registration may appeal the denial to the administrative review board under the procedures specified in ch. 1.06. (Ord. 6572 §5, 2005; Ord. 4394 §1, 1983).

5.34.070 Regulation of direct sellers. A. Prohibited Practices.

1. A direct seller shall be prohibited from calling at any dwelling or other place between the hours of 8:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers", "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

2. A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.

3. No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

4. No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one-hundred foot radius of the source.

5. No direct seller shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

6. Upon demand from any police officer or other city official, a direct seller shall promptly provide his/her license for examination by that person.

7. The license number issued to a direct seller must appear in a clearly visible place in all printed or written advertisement used by the direct seller to promote his/her business. Such number shall appear at the end of the following phrase: "City of Eau Claire license no. _____."

All radio or television advertisement by a direct seller must also contain either a verbal or a written statement that the advertiser is licensed by the city of Eau Claire, and must include that direct seller's number.

B. Disclosure Requirements.

1. After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of goods or services he/she offers to sell.

2. If any sale of goods is made by a direct seller, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel said transaction, if it involves the extension of credit or is a cash transaction of more than \$25, in accordance with the procedure as set forth in sec. 423.203, Stats.; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of secs. 423.203 (1)(a)(b) and (c), (2) and (3), Stats.

3. If the direct seller takes a sales order for the later delivery of goods, he/she shall, at the time the order is taken, provide the amount paid in advance whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof. (Ord. 4455 §§4, 5, 6, 1984; Ord. 4394 §1, 1983).

5.34.080 Records. The chief of police shall report to the clerk all convictions for violation of this ordinance and the clerk shall note any such violation on the record of the registrant convicted. (Ord. 4394 §1, 1983).

5.34.090 Revocation of registration--Appeal. A. Registration may be revoked by the city clerk, upon administrative determination that the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this ordinance or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.

B. Appeal from the afore stated determination shall be made to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board. (Ord. 6572 §5, 2005; Ord. 4394 §1, 1983).

5.34.100 Penalty. Any person convicted of violating any provisions of this ordinance shall forfeit not less than ten dollars nor more than one hundred dollars for each violation plus costs of prosecution. Each violation shall constitute a separate offense. (Ord. 4394 §1, 1983).

5.34.110 Severance Clause. The provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance; they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part. (Ord. 4394 §1, 1983).

Chapter 5.42

POOL HALLS, BILLIARD HALLS AND BOWLING ALLEYS

Sections:

- 5.42.010 License--Required.**
- 5.42.020 Application--Procedure.**
- 5.42.030 License--Fee.**
- 5.42.035 Application--Qualifications.**
- 5.42.040 Premises--Regulations compliance.**
- 5.42.050 Inspection of pool halls.**
- 5.42.055 Closing hours.**
- 5.42.060 Minors.**
- 5.42.065 License--Revocation--Suspension--Appeal.**
- 5.42.070 Violation--Penalty.**

5.42.010 License--Required. It is unlawful for any person, firm or corporation to maintain or carry on any public pool room, billiard hall or other place of any name whatever in which billiard or pool tables kept for gain, or other kindred tables or bowling alleys are kept for gain, within this city, unless such person, firm or corporation has obtained a license therefor as provided in this chapter. (Prior code §14.33(a)).

5.42.020 Application--Procedure. A. Every person, firm or corporation keeping and maintaining billiard halls, pool rooms or bowling alleys in this city shall make written application for a license therefor to the city clerk and before the license is issued, shall pay to the city treasurer, for the use of the city, a license fee as provided in Section 5.42.030.

B. The application shall be presented to the city clerk, shall be issued by the city clerk and shall expire on the thirtieth day of June after issuance. (Ord. 4515 §9, 1984; Prior code §14.33(b), (c)).

5.42.030 License--Fee. The license fee shall be as stated in the City of Eau Claire Fees and Licenses Schedule for each billiard, pool or pocket billiard table, or other similar tables, and for each bowling alley the license shall be as stated in the City of Eau Claire Fees and Licenses Schedule for each bowling establishment. The license moneys shall be paid before a license is granted and such license shall not be transferable without the consent of the city council. (Ord. 6363 §15, 2002; Ord. 6111 §1, 2000; Ord. 5088, 1990; Ord. 4789 §8, 1987; Ord. 3951 §9, 1979; Prior code §14.33(d)).

5.42.035 Application--Qualifications. A. Applicants, whether an individual or agent of a corporation or other legal entity, may only be granted a license if they satisfy the following minimum requirements:

1. Applicant has not been convicted of any felony, misdemeanor or other offense, the circumstances of which substantially relate to the circumstances of the licensed activity, subject to Wis. Stats. sections 111.321, 111.322 and 111.335; and

2. Applicant is at least 18 years of age; and

3. Applicant has not violated this chapter within one year prior to the date of application. (Ord. 6111 §2, 2000).

5.42.040 Premises--Regulations compliance. No pool and billiard table license or bowling alley license shall be issued unless the premises comply with and conform to all ordinances, health regulations and fire regulations of the city, all laws, rules and regulations of the state, and all standards of the National Fire Protection Association applicable to such premises. (Copies of which said standards are by reference made a part hereof and which are on file in the office of the city clerk.) (Prior code §14.33(e)).

5.42.050 Inspection of pool halls. During the hours the pool hall is open for business, entrance and exit doors, and all interior doors, excepting storeroom, stock and office doors on the licensed premises shall be kept unlocked to permit ready inspection by the police or city-county health departments. (Ord. 6111 §3, 2000; Prior code §14.33 (f)).

5.42.055 Closing hours. No pool or billiard hall licensed under this chapter shall operate or keep open said premise between the hours of 12:00 midnight and 6:00 a.m., except on Saturdays, Sundays and legal holidays, when the hours of closure shall be between 2:00 a.m. and 6:00 a.m. (Ord. 6111 §4, 2000).

5.42.060 Minors. No pool or billiard hall licensed under this chapter shall allow or in any manner permit any person under the age of 16 years to enter or remain on the licensed premises, unless accompanied by parent or guardian. (Ord. 6111 §5, 2000).

5.42.065 License--Revocation--Suspension--Appeal. A. Licenses issued hereunder may be revoked or suspended by the city clerk upon administrative determination that the licensee used the licensed premises for any disorderly or illegal business purposes, violation of any law or regulation on or about the premises, or violation of any of the requirements of this chapter. Appeal from the afore stated determination shall be made to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board.

B. License suspensions shall be for a time period set by the city clerk or the administrative review board. If a license is revoked, at least (6) months shall elapse before another license under the chapter may be granted to the same appellant or premises. (Ord. 6572 §6, 2005; Ord. 6111 §6, 2000).

5.42.070 Violation--Penalty. The provisions of Section 5.46.060 shall apply to violations of this chapter. (Prior code §14.36).

Chapter 5.46**THEATERS AND MOVIE HOUSES****Sections:**

- 5.46.010 License--Required.**
- 5.46.020 Theater, movie house--Defined.**
- 5.46.030 License--Applications--Requirements.**
- 5.46.040 License--Revocation--Suspension--Appeal.**
- 5.46.050 License--Fee.**
- 5.46.060 Violation--Penalty.**

5.46.010 License--Required. No person, firm or corporation, either as owner, lessee, manager, officer or agent, shall keep, maintain, conduct or operate any theater or moving picture show house in the city without first obtaining a license therefor in the manner hereinafter provided. (Prior code §14.81).

5.46.020 Theater-movie house--Defined. "Theater or moving picture show house", as used in this chapter means any edifice, hall, building or part of building regularly or generally used or wholly devoted to the purposes of dramatic, operatic, vaudeville or other exhibition plays or performances for admission to which an entrance fee is paid, charged or received, or regularly or generally used or wholly devoted to the purpose of exhibiting moving pictures of any kind for admission to which an entrance fee is paid, charged or received, and shall exclude churches, schools and other halls used only occasionally for moving picture exhibitions, illustrated or other lectures, concerts or amateur theatricals or exhibitions. (Prior code §14.82).

5.46.030 License--Applications--Requirements. Applications for said licenses stating the location and the seating capacity of the premises shall be made to the city clerk, who shall be responsible for issuance of such license. No license shall be granted for any premises which does not conform in all respects to the laws of this state and the ordinances of the city and the standards of the National Fire Protection Association applying to such premises (copies of which said standards are by reference made a part hereof and which are on file in the office of the city clerk), and unless the same shall be safe and proper for the purposes for which it is to be used. (Ord. 4515 §10, 1984; Prior code §14.83).

5.46.040 License--Revocation--Suspension--Appeal. The city clerk shall have power and authority to revoke or suspend for cause, any license granted according to the provisions of this chapter, whenever in his judgment, the good order and welfare of the city will be promoted thereby, and whenever the licensed building does not conform in all respects to the laws of this state, standards of the National Fire Protection Association and the ordinances of the city applying to such edifices, and whenever the same shall be unsafe and improper for the purposes for which it is used. Appeal from the afore stated determination shall be made to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board. (Ord. 6572 §7, 2005; Prior code §14.84).

5.46.050 License--Fee. The schedule of annual license fees under this chapter shall be as stated in the City of Eau Claire Fees and Licenses Schedule. (Ord. 6363 §16, 2002; Ord. 3951 §11, 1979; Prior code §14.85).

5.46.060 Violation--Penalty. Any person who violates any of the provisions of this chapter shall forfeit a penalty not exceeding two hundred dollars and the costs of prosecution for each and every offense, and in default of payment thereof, shall be committed to the county jail of Eau Claire County until such forfeiture and costs and expenses of prosecution are sooner paid. (Prior code §14.87).

Chapter 5.48

ROLLER SKATING RINKS*

Sections:

5.48.010 Roller skating rink defined.

5.48.020 License--Required.

5.48.030 License--Fee.

5.48.040 License--Premises conformance--Display.

5.48.050 License--Revocation--Suspension--Appeal.

5.48.060 Premises standards.

5.48.070 Prohibitions.

5.48.090 Violation--Penalty.

5.48.010 Roller skating rink defined. "Public roller skating rink", as used in this chapter, means any hall, pavilion, room, place or space in which roller skating shall be permitted and for which admission can be had by payment of a fee or by the purchase, possession or presentation of a ticket or token, or at which a charge is made for caring for clothing or other property, or any other public roller skating rink to which the public generally may gain admission with or without payment of a fee. (Prior code §14.18).

5.48.020 License--Required. No persons, partnership, corporation, club or society shall conduct or operate any public roller skating rink as defined within the city without first procuring a license for such skating rink as provided in this chapter. Applications for such license shall be made to the city clerk who shall be responsible for issuing the license. (Ord. 4515 §11, 1984; Prior code §14.19(a)).

5.48.030 License--Fee. The annual fee for a license for conducting a public roller rink shall be as stated in the City of Eau Claire Fees and Licenses Schedule. The entire license fee shall be charged for every license for the whole or the fraction of a year and shall be paid when application is made for such license. If the license is denied, the fee shall be returned to the applicant. Every license granted shall expire on the thirtieth day of June next succeeding the date of its issue. All license fees paid under the provisions of this chapter shall be paid to the city treasurer. (Ord. 6363 §17, 2002; Prior code §14.19(b)).

* For provisions of general charter law granting cities the right to license, tax and regulate business and business enterprises, see WSA 62.11(5)).

5.48.040 License--Premises conformance--Display. No license for a public roller skating rink shall be issued unless such rink complies with and conforms to all ordinances, health regulations and fire regulations in the city; all laws, rules and regulations of the state; and standards of the National Fire Protection Association applicable to such public roller skating rink or the premises on which it is situated. (Copies of which said standards are by reference made a part hereof and which are on file in the office of the city clerk.) The skating rink shall be properly ventilated and operating with adequate toilet facilities and a safe, sanitary and proper place for the purpose for which it is to be used. Application for a license to conduct a public roller skating rink shall be in writing, filed with the city clerk and shall state the specific location where such public roller skating rink is to be conducted. When and if issued, such license shall be permanently and continuously displayed in the public roller skating rink so licensed and shall be subject to revocation as provided in Section 5.48.050. (Prior code §14.19 (c)).

5.48.050 License--Revocation--Suspension--Appeal. The license of any public roller skating rink may be revoked or suspended by the city clerk for disorderly conduct on the premises, for violation of any law or regulation, or for the violation of any of the provisions of this chapter. If at any time the license of a public roller skating rink shall be revoked or suspended, at least six months shall elapse before another license shall be granted to the same applicant for operation of a public roller skating rink. Appeal from the afore stated determination shall be made to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board. (Ord. 6572 §8, 2005; Prior code §14.19(d)).

5.48.060 Premises--Standards. Every public roller skating rink shall be kept at all times in a clean and healthful and sanitary condition, and while any skating is held therein, the entire skating rink and all rooms connected therewith, and all stairways and passageways leading into such rink shall be kept open and well lighted at all times. (Prior code §14.20).

5.48.070 Prohibitions. No licensee who has been granted a license to conduct a public roller skating rink shall permit in such rink or on the premises on which such rink is situated:

- A. The use of any fermented malt beverage, intoxicating liquor or controlled substance, as defined in Ch. 161, Wisconsin Statutes;
- B. The presence of any person under the influence of fermented malt beverages, intoxicating liquor or controlled substance, as defined in Ch. 161, Wisconsin Statutes;
- C. The presence of any person having in his possession or offering for sale, selling or giving away, any fermented malt beverage, liquor or controlled substance, as defined in Ch. 161, Wisconsin Statutes;
- D. No loud or unusual noises shall be permitted upon the premises, nor shall any music be played unless such music shall be so controlled as not to constitute a nuisance. (Ord. 4276 §1, 1982; Prior code §14.21).

5.48.090 Violation--Penalty. The provisions of Section 5.46.060 shall apply to violations of this chapter. (Prior code §14.23).

Chapter 5.52

TREE TRIMMER*

Sections:

5.52.010 License--Required--Procedure.

5.52.020 Licensee--Liability insurance.

5.52.030 License--Revocation--Suspension--Appeal.

5.52.040 Violation--Penalty.

5.52.010 License--Required--Procedure. A. No person shall engage in the business of tree trimming, tree removal or tree stump removal within the city without first obtaining a license to do so.

B. Applications for such license shall be on forms furnished by the city clerk and shall be accompanied by a license fee as stated in the City of Eau Claire Fees and Licenses Schedule.

C. The license shall be signed by the city clerk and shall have a term from July 1st of each year to the next succeeding June 30th. The license shall be nontransferable.

D. No license shall be issued to any applicant who has not successfully completed an appropriate examination, oral or written or both, as administered by the city forester. (Ord. 6363 §18, 2002; Ord. 6233 §4, 2001; Ord. 4967, 1989; Prior code §13.17 A).

5.52.020 Licensee--Liability insurance. A. No license shall be issued until the applicant has in full force and effect a public liability insurance policy, in a company authorized to do business in the state, in amounts of \$250,000 for any one person injured or killed and a total of \$500,000 for more than one person injured or killed, and \$100,000 for the injury or destruction of any property of any person other than the licensee.

B. No licensee shall continue to engage in the business of tree trimming or tree or stump removal after the above required insurance has lapsed, expired or is otherwise not in full force and effect. (Ord. 4967, 1989; Ord. 4653 §1, 1986; Ord. 4503, 1984; Ord. 3516 §1, 1975; Prior code §13.17 B).

5.52.030 License--Revocation--Suspension--Appeal. Any license issued hereunder may be revoked or suspended by the city clerk or city forester upon administrative determination that the licensee has failed or refused to comply with the provisions of this chapter, or for violation of any city or state laws related to the business of tree trimming. Appeal from the afore stated determination shall be made to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board. (Ord. 6572 §9, 2005; Ord. 4967, 1989; Prior code §13.17 C).

5.52.040 Violation--Penalty. Any person violating any provision of this chapter shall forfeit not less than \$20 nor more than \$200 and the costs of prosecution for each and every offense. Each day during which a violation occurs shall constitute a separate offense. In default of payment thereof, any person violating the provisions of this chapter shall be committed to the county jail for a period not to exceed 30 days. (Ord. 4967, 1989; Ord. 4650 §2, 1986; Prior code §13.18).

* For provisions of general charter law granting cities the right to license, tax and regulate businesses and business enterprises, see WSA 62.11(5).

Chapter 5.54**VEHICLES FOR HIRE*****Sections:**

- 5.54.010 License--Required.**
- 5.54.020 License--Issuance conditions--Fee.**
- 5.54.030 License--Denial--Revocation--Suspension--Appeal.**
- 5.54.040 Insurance coverage.**
- 5.54.050 Vehicle identification.**
- 5.54.060 Driver's license--Required.**
- 5.54.070 License--Application.**
- 5.54.080 License--Fee.**
- 5.54.095 Exemptions.**
- 5.54.100 Violation--Penalty.**

5.54.010 License--Required. No person, firm or corporation shall for hire or reward transport passengers by means of a motor-driven vehicle within the city limits of Eau Claire, except as hereinafter provided. (Prior code §15.101(a)).

5.54.020 License--Issuance conditions--Fee. A. Each person, firm or corporation other than employees, who, for hire or reward, engages in the business of carrying passengers in or on a motor-driven vehicle, shall pay an annual license fee as stated in the City of Eau Claire Fees and Licenses Schedule for each vehicle so to be operated, and any and all such persons, firms or corporations shall have and continually maintain a regularly established place of business; provided, however, no license shall be issued unless the applicant is a citizen of the United States, of good character and of the age of 18 years or upwards, or to a corporation organized under the laws of the state.

B. Licenses shall be granted for one year. Applications therefor shall be made on blanks to be provided by the city clerk and shall state:

1. The number of vehicles to be operated, the make and type of each motor car to be used, the horsepower, the factory number, the license number of each thereof, and the number of years the vehicle has been driven, with the seating capacity according to trade rating;
2. Whether applicant has been previously licensed to operate motor vehicles for hire and when and in what cities or places;
3. Whether a license to operate has ever been revoked and for what reason and where;
4. Whether applicant has ever been charged with or convicted of violation of any ordinances of the city or statutes of the state of Wisconsin, and state the nature of the charge and the place where the proceedings were taken;
5. Location of place of business of the applicant, residence during preceding year and length of time of residence in the city.

C. All applications shall be presented to and approved by the city clerk before the clerk issues the licenses. All licenses issued under this chapter shall expire on the thirtieth day of June succeeding the date of issue. Full license fees shall be deposited with the application. (Ord. 6363 §19, 2002; Ord. 6233 §5, 2001; Ord. 5429, 1994; Ord. 5165, 1991; Ord. 4515 §12, 1984; Prior code §15.101(b)).

* For statutory provisions authorizing city councils to license and regulate taxicab companies, chauffeurs and operators of cabs used for hire, see WSA 349.24.

5.54.030 License--Denial--Revocation--Suspension--Appeal. Licenses issued hereunder may be denied, revoked or suspended by the city clerk if the vehicle licensed shall be used for illegal business or purpose, for violation of any ordinance or state law applicable to the operation of motor vehicles, for violation of this chapter, or upon recommendation of the chief of police. When a license is revoked or suspended the license cards issued hereunder for such vehicle shall be returned to the city clerk to be retained by him; in cases of suspension the cards shall be returned to the licensee after the expiration of the suspension. Appeal from the afore stated determination shall be made to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested revocation or suspension pending decision by the board. (Ord. 6572 §10, 2005; Prior Code §15.102).

5.54.040 Insurance coverage. It is unlawful for any person, firm or corporation to transport passengers for hire or reward by means of a motor-driven vehicle within the city unless such person, firm or corporation shall have filed with the city clerk, and there is in full force and effect at all times while such person, firm or corporation is carrying on such business, a policy of insurance in a company authorized to do business in the state insuring said owner, operator or driver of the motor-driven vehicle against loss or damage that may result to any person or persons or property from the operation or defective condition of the motor-driven vehicle, said policy of insurance to be in limits of \$250,000 for any one person injured or killed and subject to such limit for each person and a total liability of \$500,000 in case of one accident resulting in bodily injury or death to more than one person. The policy of insurance must also provide insurance to the extent of \$100,000 for the injury or destruction of any property of any person other than the licensee. The policy shall guarantee payment of any final judgment rendered against said owner, operator, or driver of said motor vehicle within the limits herein provided irrespective of the financial responsibility or any act or omission of said motor-driven vehicle owner, operator, or driver. If at any time the policy of insurance be cancelled by the issuing company or the authority of such issuing company to do business in the state be revoked, the city manager shall require the party to whom the license is issued as hereinafter provided to replace the policy with another policy satisfactory to the city manager and in default thereof the license may be revoked. Each policy so filed with the city clerk shall contain a rider reciting that the insurer will give the city clerk written notification of the proposed cancellation of such policy. Each and all of such policies shall, however, cover loss or damage by any motor driven vehicle used by any such person, firm or corporation to the same extent as in this section set forth. Such insurance policies shall be continuing liability notwithstanding recovery thereon and shall always remain in force. Such insurance policies shall describe the motor vehicle on which the same shall be issued by the factory number, maker's name, rated seating capacity, number of passengers capable of being accommodated therein at one time, the number of the state license and the city license under which the same is being operated. When the state or city license is changed by issuance of a new one, the fact shall be indicated upon said policy contract of insurance by attachment of a rider thereto giving such new number. (Ord. 5944, 1999; Prior code §15.103).

5.54.050 Vehicle identification. Every motor-driven vehicle used for the carrying of passengers as herein provided for shall display in a prominent place visible to passengers a card bearing the name of the owner, license number of the car and the name of the driver. (Prior code §15.104).

5.54.060 Driver's license--Required. No person shall drive or operate a motor vehicle for hire that has not been licensed pursuant to Section 5.54.010 and 5.54.020 and where the operator or driver thereof has not been licensed as provided herein. (Prior code §15.105).

5.54.070 License--Application. Application for such operator's-driver's license shall be filed with the city clerk upon blanks provided by the city, and the application shall then be transmitted to the chief of police. Such application shall contain such information as the chief of police may prescribe. All applications shall be presented to the city clerk who shall be responsible for issuing all licenses. (Ord. 4515 §13, 1984; (Prior code §15.106).

5.54.080 License--Fee. The license fee shall be as stated in the City of Eau Claire Fees and Licenses Schedule and shall expire on the thirtieth day of June of each year. (Ord. 6363 §19, 2002; Ord. 6233 §5, 2001; Ord. 4789 §10, 1987; Ord. 3951 §12, 1979; Prior code §15.107).

5.54.095 Exemptions. This chapter shall not apply to the following:

A. Any escort service provided by the University of Wisconsin-Eau Claire which is operated solely for the protection of its students, is not open to the public, and where a fee is charged by the university for such transportation.

B. The operation of a vehicle for hire over a fixed or established route.

C. Transportation of persons for emergency or non-emergency medical purposes. (Ord. 5137, 1991; Ord. 4588, 1985).

5.54.100 Violation--Penalty. In case of violation of this chapter, the person, firm or corporation violating the same shall forfeit not less than twenty-five dollars, nor more than one hundred dollars, together with the costs of prosecution, for each offense. In default of payment of such forfeiture and costs of prosecution, the defendant shall be imprisoned in the county jail of Eau Claire County for not less than thirty days or more than six months unless such forfeiture and costs are sooner paid. In addition to the forfeiture and costs authorized by this chapter for violation thereof, any licensee shall be subject to the suspension or revocation of his license by the court upon conviction for any violation of this chapter. (Prior code §15.109).

Chapter 5.56

MASSAGE THERAPY FACILITIES, MASSAGE THERAPISTS AND THE PRACTICE OF MASSAGE THERAPY

Sections:

5.56.010 Definitions within this chapter.

5.56.020 Massage therapy facility.

5.56.030 Massage therapy facility--Operation.

5.56.035 On-site massage therapy.

5.56.040 Massage therapy facility--License required.

5.56.050 Massage therapist permit required.

5.56.053 Applicability.

5.56.055 Insurance requirements.

5.56.060 Education and training requirements.

5.56.065 License or permit--Denial--Revocation--Suspension--Appeal.

5.56.070 Violations.

5.56.080 Prohibited conduct of therapists, facility operators and clients.

5.56.090 Penalty.

5.56.100 Sale or transfer.

5.56.110 Expiration of licenses and permits.

5.56.120 Exemptions.

5.56.010 Definitions within this chapter. A. "Massage therapy" means the manipulation of the soft tissue of the body for therapeutic purposes and may include but is not limited to effleurage, petrissage, tapotement, compression, vibration, friction, stroking or kneading, either by hand or with mechanical or electrical apparatus, for the purpose of body massage.

B. "Massage therapy facility" means any place where any person engages in, conducts or carries on massage therapy or permits massage therapy to be engaged in, conducted or carried on. It does not include locations used for on-site massage therapy unless such locations become established, regularly-scheduled sites where space is leased by the therapist or where other indices of a bona fide facility exist.

C. "Massage therapist" means any person who gives or administers massage therapy.

D. "Client" means any person who receives massage therapy under such circumstance that it is reasonably expected that he or she will pay money or give anything of value. (Ord. 5820 §1, 1998; Ord. 5030, 1990).

5.56.020 Massage therapy facility. Every massage therapy facility shall meet the following requirements:

A. Every massage therapy facility shall have restroom facilities that meet the standards prescribed by state law.

B. If male and female clients are to be served simultaneously, such massage therapy rooms, dressing facilities, steam rooms and sauna rooms as are provided shall be separate for male and female clients and each such separate facility or room shall be clearly marked as such.

C. Rooms in which massage therapy is to be practiced or administered shall have at least fifty square feet of clear floor area. Rooms shall have lighting capability of at least forty candlepower. Such rooms shall be equipped with cabinets for the storage of clean linen and chemicals and proper receptacles for the storage of soiled linen.

D. No stuffed or upholstered furniture shall be used for massage therapy in massage facilities. These facilities shall be equipped with massage therapy tables and/or chairs having an impervious surface or covering with a width of no more than three feet and a length of no more than eight feet. The surface of such tables shall be positioned at least two feet from the surface of the floor so as to allow for free access to the floor beneath. Such tables and/or chairs may be equipped with either nondisposable pads or coverings or disposable coverings not more than two and one-half inches thick. Nondisposable pads or coverings shall be removable, impervious and cleanable. (Ord. 5820 §2, 1998; Ord. 5030, 1990).

5.56.030 Massage therapy facility--Operation. Every massage therapy facility and every massage therapist shall comply with the following operating requirements. These requirements shall be prominently and publicly displayed in a conspicuous place upon every premises licensed under the provisions of this section.

A. Massage therapy facilities shall commence operations no earlier than six a.m. and the hours of operation shall extend no later than one minute after twelve a.m. Massage therapists shall not practice or administer massage therapy at massage therapy facilities at any time outside of the hours of operation.

B. Massage therapy facilities and massage therapists therein shall prominently and publicly display on the premises their licenses and permits during all hours of operation.

C. Massage therapy facilities shall at all times be equipped with clean sanitary towels, coverings and linens for body and feet to be used by all clients. Disposable coverings and towels shall not be used on more than one client. Soiled linens and paper towels shall be deposited in proper receptacles.

D. Instruments utilized in performing massage therapy shall not be used on more than one client unless they have been first sanitized, using disinfecting agents and methods approved by the health officer for the city. Massage therapy table and/or chair pads and reusable table and/or chair coverings shall be disinfected between each massage therapy with approved chemicals. Chemicals used during massage therapy shall be stored separately in containers clearly labeled as to contents. All chemical containers shall be stored in cabinets reserved solely for such purpose.

E. Massage therapy shall not be given unless clients are wearing opaque clothing fully covering their genitals and female clients are in addition wearing opaque clothing fully covering their breasts; with the expressed consent of the client, this clothing may be repositioned to accommodate specific and appropriate work on underlying musculature of the chest or abdomen, excluding the mammary glands. Where such clothing is furnished clients by the massage therapy facility, it shall not be used by more than one client unless it has first been laundered and disinfected. Massage therapists shall be fully clothed in clean, opaque clothing.

F. Massage therapy shall not be given to clients who have open sores or other visual signs of contagion or communicable disease.

G. For purposes of ascertaining violations of this section and conducting routine inspections, police officers, health officers, building inspectors, and the fire chief shall have the right of entry onto the premises of any massage therapy facility during the hours such facility is open for business. If health officers observe that any massage therapist has open sores, or otherwise have reasonable grounds to believe that any massage therapist is infected with a contagious or communicable disease, they shall have the right to suspend such massage therapist from practicing or administering massage therapy until such time as he or she furnishes a doctor's certificate showing him to be free of any contagious or communicable disease. (Ord. 5030, 1990).

5.56.035 On-site massage therapy. A. On-site massage therapy shall include home visits and massage therapy in public or private buildings, outside of the licensed facility. This privilege shall be available only to those massage therapists who are licensed under this chapter. The license must accompany the massage therapist on all site visits and the therapist must receive the permission of and register with the person in charge of the public or private building prior to performing massage therapy. On-site massage therapy shall not be permitted at hotels or motels unless it is part of a health fair or exposition, but shall not take place in a sleeping room. Therapists may not participate in more than 6 such events in a calendar year.

B. On-site massage therapy is also regulated by the conditions set forth in this chapter. (Ord. 5820 §3, 1998; Ord. 5030, 1990).

5.56.040 Massage therapy facility--License required. No person shall carry on the business of operating a massage therapy facility at any place within the city unless he has a valid license issued pursuant to the provisions of this section for each and every such place of business.

A. Application.

1. Fee. Any person desiring to obtain a license to operate a massage therapy facility shall make application to the city clerk. A fee as stated in the City of Eau Claire Fees and Licenses Schedule shall accompany the submission of the application to defray the costs of administration and investigation.

2. Contents. Any person desiring a massage therapy facility license shall file a written application with the city clerk on a form to be provided by the city clerk. If the applicant is a corporation, the name of the corporation shall be set forth exactly as set forth in its articles of incorporation, together with the names and addresses of each of its officers, directors and each stockholder of the corporation. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partner. If the applicant is neither a corporation nor a partnership, the application shall set forth the full name and address of the applicant and be verified by the applicant. The application for massage therapy facility license shall set forth the proposed place of business and the facilities therefor, together with a detailed description of the nature and scope of the proposed business operation.

3. Information. In addition to the provisions of subsection A.2., the following information shall be furnished concerning the applicant if an individual; concerning each individual stockholder, officer and director if the applicant is a corporation; and concerning the partners, including limited partners, if the applicant is a partnership:

- a. The previous addresses, if any, for a period of one year immediately prior to the date of application and the dates of such residence;
- b. The date of birth;
- c. The business, occupation or employment history for the past two years immediately preceding the date of application, including, but not limited to, whether such person previously operated under a similar permit or license in another city in this or another state and whether or not such license was suspended or revoked;
- d. Whether or not the individual has had a felony conviction involving a crime against morality under Chapter 944 of the Wisconsin Statutes or has had a felony conviction involving a crime against life and bodily security under Chapter 940 of the Wisconsin Statutes, during the past five years immediately preceding application.

B. Investigation. Applications for licenses under this section shall be referred to the chief of police, health officer, building inspector and fire chief, all of whom shall cause an investigation to be made and report their findings to the city clerk. Applicants shall cooperate with any investigation conducted pursuant to the provisions of this section and shall permit access to the proposed place of business and facilities therefor in conjunction with any such investigation.

C. Granting of License. Within thirty days of the receipt of an application, the city clerk shall either grant or deny a massage therapy facility license. The city clerk shall grant such a license if it finds:

- 1. The required fee has been paid;
- 2. The application conforms in all respects to the provisions of this section;
- 3. The applicant has not knowingly made a material misstatement in the application for a license;
- 4. The applicant has fully cooperated in the investigation of his or her application;
- 5. The massage therapy facility as proposed by the applicant would comply with all applicable laws, including but not limited to, the city's building, zoning and health regulations;
- 6. The applicant, if an individual, or any of the stockholders of the corporation, any officers, or directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, has not been convicted of any felony crime involving dishonesty, fraud, deceit or immorality as contained in Chapter 944 of the Wisconsin Statutes within five years prior to the date of application;
- 7. The applicant has not had a massage therapy facility license or a massage therapist permit or other similar license or permit denied or revoked for cause by this city or any other city located in or out of this state within the five years prior to the date of application;
- 8. The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, is eighteen years of age;
- 9. The applicant, if a corporation, is licensed to do business and in good standing in the state;
- 10. The massage therapy facility as proposed by the applicant would comply with the requirements of Section 5.56.020. (Ord. 6363 §20, 2002; Ord. 6233 §6, 2001; Ord. 5030, 1990).

5.56.050 Massage therapist permit required. No person shall practice or administer massage therapy unless he or she has a valid permit issued pursuant to the provisions of this section.

A. Application.

- 1. Fee. Any person desiring to obtain a permit to act as a massage therapist shall make application to the city clerk for a massage therapist permit. A fee as stated in the City of Eau Claire Fees and Licenses Schedule shall accompany the submission of an application to defray the costs of investigation and administration.

2. Contents. Any person desiring a massage therapist permit shall file a written application with the city clerk on a form to be provided by the city clerk. The application shall be verified by the applicant. Any applicant for a massage therapist permit shall furnish all the information required in Section 5.56.040 A.3., a through d.

3. Investigation. Applications for permits under this section shall be referred to the chief of police who shall cause an investigation to be made of the applicant and report his or her findings to the city clerk.

4. Granting of Permit. Within thirty days of receipt of the application, the city clerk shall grant or deny a massage therapist permit. The city clerk shall grant a massage therapist permit if it finds that:

- a. The required fee has been paid;
- b. The application conforms in all respects to the provisions of the ordinance codified in this chapter;
- c. The applicant has not knowingly made a material misstatement in the application for a permit;
- d. The applicant has fully cooperated in the investigation of his application;
- e. The applicant has not within five years immediately preceding the date of application been convicted of a felony crime of immorality as outlined in Chapter 944 of the Wisconsin Statutes;
- f. The applicant has not previously had a massage therapist permit or other similar permit or license denied or revoked for cause by this city or by any other municipality in this or any other state within five years of the date of application;
- g. The applicant is eighteen years of age. (Ord. 6363 §20, 2002; Ord. 5030, 1990).

5.56.053 Applicability. The provisions of this chapter related to massage therapists shall not apply to persons issued a license of registration by the Wisconsin Department of Regulation and Licensing pursuant to Chapter 440 of the Wisconsin Statutes. If there is a conflict between the language of this chapter and Chapter 440, the provisions of Chapter 440 shall prevail. (Ord. 5917, 1999).

5.56.055 Insurance requirements. A. Beginning July 1, 1990, no massage therapist or massage therapy facility license shall be issued until the applicant has furnished satisfactory proof that a public liability insurance policy is in full force and effect in a company authorized to do business in this state in minimum amounts of \$500,000 for any one person injured or killed and \$500,000 for the injury or destruction of any property. These policies shall cover the operation of the therapist and/or the therapy facility.

B. No licensee or permittee shall continue to engage in the massage therapy business after the above required insurance has lapsed, expired or is otherwise not in full force and effect. (Ord. 5030, 1990).

5.56.060 Education and training requirements. To be eligible for a permit, an applicant:

A. Shall furnish a diploma or certificate of graduation from a recognized school. A recognized school means any school or institution of learning which has for its purpose the teaching of theory, method, profession and work of massage therapy requiring a resident course of study. The course of study shall consist of not less than 500 hours in the classroom and clinic. The required and supervised course of study shall include, but not be limited to, anatomy, physiology, massage theory, professional ethics, basic first aid, cardiopulmonary resuscitation, hygiene ethics and practical application of technique. A correspondence course of study not requiring actual class attendance shall not be deemed a recognized school; or

B. Must show proof of certification from the National Certification Board for Therapeutic Massage and Bodywork. (Ord. 5820 §4, 1998; Ord. 5030, 1990).

5.56.065 License or permit--Denial--Revocation--Suspension--Appeal. Any license or permit issued hereunder may be denied, revoked or suspended by the city clerk upon administrative determination that the licensee or permit holder has failed or refused to comply with the provisions of this chapter, for disorderly or illegal conduct on the premises, or for violation of the rules, regulations, or laws related to massage therapy, massage therapists, and the practice of massage therapy. Appeal from the afore stated determination shall be made to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested revocation or suspension pending decision by the board. (Ord 6572 §11, 2005; Ord. 5030, 1990).

5.56.070 Violations. It is unlawful for any person:

- A. To operate a massage therapy facility without having a license therefor as required by Section 5.56.040;
- B. To act as a massage therapist without having a permit therefor as required by Section 5.56.050;
- C. To allow or permit persons to act therein as massage therapists without first having a permit therefor as required by Section 5.56.050, if such person operates a massage therapy facility;
- D. To act as a massage therapist within a massage therapy facility which does not have a license therefor as required by Section 5.56.040. (Ord. 5030, 1990).

5.56.080 Prohibited conduct of therapists, facility operators and clients. A. It is unlawful for any massage therapist to massage the genital area of any client or the breasts of any female client, for any operator of a massage therapy facility to allow or permit such massage in such massage therapy facility, or for any client to permit such massage upon his or her body.

B. It is unlawful for any operator of a massage therapy facility or any massage therapist to violate any of the provisions of Section 5.56.030. (Ord. 5030, 1990).

5.56.090 Penalty. Any person who violates any provisions of this chapter shall, upon conviction, be subject to a forfeiture of not exceeding five hundred dollars for each offense. Each day, or portion thereof, during which any violation continues shall be deemed to constitute a separate offense. (Ord. 5030, 1990).

5.56.100 Sale or transfer. Upon the sale or transfer of any interest in a massage therapy facility, the license therefor shall be null and void. Any person desiring to continue to operate such massage therapy facility following sale or transfer shall make application therefor pursuant to this chapter. (Ord. 5030, 1990).

5.56.110 Expiration of licenses and permits. All licenses or permits issued pursuant to the provisions of this chapter shall expire on the last day of June of each calendar year. (Ord. 5030, 1990).

5.56.120 Exemptions. This chapter shall not apply to the following:

- A. Hospitals, nursing homes, sanitariums or other health care facilities licensed under the state of Wisconsin, and physicians, surgeons, chiropractors, osteopaths or physical therapists licensed or registered to practice their respective professions under the laws of the state;
- B. Barbershops, barbers, cosmetologists and beauty salons licensed under the laws of the state, provided that such massage therapy as is practiced is limited to the head and scalp;
- C. Coaches and trainers at accredited high schools and colleges while acting within the scope of their employment;
- D. Trainers of any amateur, semiprofessional or professional athlete or athletic team while acting within the scope of their employment;
- E. Reflexologists, practicing the science of reflexology; or
- F. Polarity therapists, practicing the science of polarity. (Ord. 5820 §5, 1998; Ord. 5030, 1990).

Chapter 5.58**TATTOOING AND BODY PIERCING****Sections:**

- 5.58.010 Applicability.**
- 5.58.020 Definitions.**
- 5.58.030 Administration.**
- 5.58.040 Tattooing, body piercing -- Permit required.**
- 5.58.050 Health and sanitary requirements.**
- 5.58.060 Temporary facility or temporary combined facility.**
- 5.58.070 Record retention.**
- 5.58.080 Appeals.**
- 5.58.090 Violation -- Penalties.**
- 5.58.100 Regulations, rules and laws adopted by reference.**

5.58.010 Applicability. The provisions of this chapter shall apply to tattoo and body piercing facilities, tattoo artists and body piercers, and the practice of tattooing and body piercing. (Ord. 5865 §2, 1998; Ord. 5449, 1994).

5.58.020 Definitions. In this chapter, unless otherwise specifically indicated:

- A. "Approved" means acceptable to the health department based upon its determination of conformance to necessary public health practices.
- B. "Board of health" means the Eau Claire city-county health department board of health.
- C. "Health department" means the Eau Claire city-county health department.
- D. "Health officer" means the director of the Eau Claire city-county health department or an authorized agent of the health officer.
- E. "Sterilize" means submission to the steam pressure (autoclave) method with at least 15 pounds of pressure per square inch at 250 degrees Fahrenheit for at least 30 minutes, such that all forms of microbial life, including spores, viruses, bacteria and fungi, are destroyed.
- F. "Tattoo artist" means any person engaged in the practice of tattooing.
- G. "Tattoo facility" means the location where tattooing is practiced.
- H. "Tattooing" means and includes any method of placing or removing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin of a person with ink or color by the aid of needles or instruments.
- I. "Temporary facility" means a single building, structure, area or location where a tattoo artist or body piercer performs tattooing or body piercing for a maximum of 7 days per event.
- J. "Body piercer" means a person who performs body piercing on another person at that person's request.
- K. "Body piercing" means perforating any human body part or tissue, except an ear, and placing a foreign object in the perforation to prevent the perforation from closing.
- L. "Body piercing facility" means the premises where a body piercer performs body piercing.
- M. "Temporary combined facility" means a single building, structure, area, or location where both tattooing and body piercing are performed for a maximum of 7 days per event. (Ord. 5865 §3, 1998; Ord. 5449, 1994).

5.58.030 Administration. The provisions of this chapter shall be administered by or under the direction of the health officer, who in person or by duly authorized representative, shall have the right to enter, at reasonable hours, upon premises affected by this chapter, to inspect the premises, examine and copy relevant documents and records, or obtain photographic or other evidence needed to enforce the provisions of this chapter. (Ord. 5449, 1994).

5.58.040 Tattooing, body piercing -- Permit required. No person shall engage in the practice of tattooing or body piercing or shall carry on the business of operating a tattoo or body piercing facility or a combined tattoo and body piercing facility within the city of Eau Claire unless he/she has a valid permit issued by the health department for each and every such place of business.

A. Application. Application for permits shall be made in writing to the health department on forms provided by the health department, stating the name and address of the applicant and the name and address of the proposed tattoo or body piercing facility or a combined tattoo and body piercing facility, together with such other information as may be required.

B. Fee. A fee as stated in the City of Eau Claire Fees and Licenses Schedule shall accompany the permit application permit.

C. Permit. Permits shall be posted in a conspicuous place in the tattoo or body piercing facility. Permits are not transferable and, except for temporary tattoo or body piercing facility permits, shall expire on June 30 following their issuance.

1. Tattoo or body piercing facility permit. A separate permit is required for each tattoo or body piercing facility. A permit shall not be transferable to a location other than the one for which it was issued. Such permits shall expire on June 30 following their issuance, unless they are issued between April 1 and June 30, in which case they shall expire on June 30 of the following year.

2. Tattoo artist or body piercer permit. A separate permit is required for each tattoo artist or body piercer engaged in the practice of tattooing or body piercing. Such permits shall expire on June 30 following their issuance, unless they are issued between April 1 and June 30, in which case they shall expire on June 30 of the following year.

3. Temporary facility or temporary combined facility permit. A separate permit is required for each temporary facility or temporary combined facility. Such permit is not transferrable to a location other than the one for which it was issued and shall expire seven days after the date it was issued.

D. Permit suspension and revocation. Such permit may be temporarily suspended by the health department for violations that present an immediate health hazard or may be revoked after repeated violations of this chapter. Any person affected by such suspension or revocation shall have the right to appeal pursuant to s. 5.58.080. (Ord. 6363 §21, 2002; Ord. 5865 §4, 1998; Ord. 5449, 1994).

5.58.050 Health and sanitary requirements. A. Premises.

1. Floor surfaces in the room in which the tattoo or body piercing is administered shall be impervious, smooth and washable. Carpeting is not allowed.

2. A handwashing facility supplied with hot and cold water under pressure, soap, and single-service towels shall be conveniently located in the tattoo or body piercing area, in addition to what is provided in the toilet room.

3. Approved waste containers with non-absorbent, durable plastic liners shall be used for all tissues, towels, gauze pads and other similar items used on the client. Any infectious waste shall be disposed of as required by Wisconsin Administrative Code Chapter NR 526.

4. Adequate cabinets with washable surfaces shall be provided for exclusive storage of instruments, dyes, pigments, stencils, and other equipment used in the practice of tattooing or body piercing.

5. All tattoo or body piercing facilities shall be maintained in a clean, sanitary condition and in good repair.

6. The tattoo or body piercing facility application area where the procedure is performed shall be adequately lighted to a minimum of 50 foot candles.

7. Tattooing or body piercing shall be performed by a tattoo artist or body piercer in a tattoo or body piercing facility completely separated from any living quarters by a solid permanent partition. A solid door leading to the living quarters is permitted, provided it remains closed during business hours. A direct outside entrance to the tattoo or body piercing facility shall be provided.

B. Equipment.

1. All tattoo or body piercing facilities shall be equipped with an autoclave which is in good working order and which is manufactured with temperature and pressure gauges marked and visible on the outside of the unit.

a. As an alternative to requiring a pressure gauge, spore strips or suspensions shall be used at least weekly and results recorded for performance checks of the autoclave.

b. A record must be maintained for each sterilization cycle, including date, sterilizing temperature, length of time at sterilizing temperature, and what was autoclaved.

c. A minimum of one time sterile indicator tape shall be included with each load sterilized and the results recorded and the autoclave shall be spore tested at least monthly. Spore kill effectiveness testing shall be conducted by an independent laboratory.

d. The autoclave shall be of sufficient size and shall be operated in accordance with manufacturer's recommendations and in a manner to prevent crowding of the chamber.

e. The autoclave chamber temperature shall be checked at least weekly with a maximum registering thermometer and results recorded.

2. All instruments used in the practice of tattooing or body piercing shall be sterilized before use.

a. All instruments shall be thoroughly cleaned before being sterilized. This may be done with an ultrasonic cleaner or with a probe, needles, or brush able to enter the smallest opening of the instrument. The cleaning of instruments shall be done with detergent and hot water or other methods approved by the health officer.

b. All instruments used in the tattoo or body piercing procedure shall be stored in a clean, dry manner after sterilization and handled in a way that will prevent recontamination.

3. Needles. Needles shall be disposable, sterile, single-patient use.

4. Stencils.

a. Plastic stencils shall be thoroughly cleaned with soap and water and sanitized after each use. They are to be sanitized by immersion for 30 minutes in a chlorine disinfectant solution prepared by mixing one tablespoon of household bleach containing five percent chlorine with one pint of water and allowed to air dry.

b. Prior to use, each pre-cleaned and sanitized plastic stencil shall be rinsed in a 70 percent isopropyl alcohol solution and allowed to air dry.

c. Paper stencils shall only be used once. New paper stencils shall be used for every individual.

5. Dyes and inks.

a. The licensee shall submit in writing to the health officer the source of all dyes and inks used in administering tattoos.

b. Non-toxic dyes or inks shall be taken only from effectively covered squeeze bottle containers that are easy to clean and disinfect.

c. Immediately before applying a tattoo, the dye to be used for the tattoo shall be squeezed from the dye bottles into disposable cups. The disposable cups shall be stored and handled in a manner to prevent them from becoming contaminated. Upon completion of the tattoo, the cups and dye shall be discarded. Any dye in which the needles were dipped shall not be used on another person.

C. Skin preparation.

1. Aseptic technique must be utilized in the practice of tattooing or body piercing.

a. Each tattoo artist or body piercer is required to scrub his or her hands with liquid soap (i.e., tincture of green soap) and water thoroughly before commencing tattooing or body piercing on the client.

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b. If the client's skin is to be shaved, the skin shall be washed with a cleansing antiseptic/antimicrobial skin cleanser before shaving. A safety razor shall be used. A new blade shall be used for each client. The blade shall be discarded after each use. Reusable blade holders shall be sterilized after each use. If disposable blade holders are used, they may be used on one client only and then must be discarded.

c. The skin area to be tattooed or body pierced shall first be cleansed with soap and water and then prepared with antiseptic such as 70 percent alcohol (and allowed to air dry) or other method approved by the health officer.

d. Single-use gauze pads or towels shall be used in the skin cleaning and preparation.

e. Petroleum jelly applied on the tattoo area shall be dispensed from a single-use disposable container or with a sterile tongue blade or sterile applicator stick which shall be discarded after each use.

2. After the tattooing or body piercing is completed, only antibacterial ointments shall be applied on the tattoo or body piercing, and if a dressing is to be used, it must be a sterile, non-sticking dressing.

3. Persons tattooed or body pierced shall be provided with printed instructions regarding tattoo or body pierce care during the healing process.

D. General supplies.

1. All tattoo or body piercing facilities shall have clean, laundered towels, washcloths or disposable paper towels in sufficient quantity for the sanitary operation of the practice of tattooing or body piercing.

2. A clean towel and washcloth shall be used for each client.

3. Clean towels and washcloths shall be stored in a closed, dust-proof container.

4. Soiled towels and washcloths shall be stored in an approved covered container.

5. All tattoo artists or body piercers shall wear clean, washable garments.

6. The operating table, chair, and supply tables shall be constructed of a material capable of being easily and thoroughly cleaned and disinfected.

E. Tattoo artist and body piercer requirements.

1. The tattoo artist or body piercer shall be free of infectious or contagious disease that may be transmitted by the practice of tattooing or body piercing.

2. Tattoo artists or body piercers with open sores or skin infections on the hand or hands shall not be permitted to engage in the practice of tattooing or body piercing. The tattoo artist or body piercer shall wear single-use disposable latex or vinyl gloves during tattooing or body piercing.

3. Smoking or consumption of food or drink shall not be allowed in the immediate vicinity where the tattoo or body piercing procedure is being performed.

4. The tattoo artist or body piercer shall wash his/her hands thoroughly with liquid soap and water before any skin preparation, tattooing, or body piercing and after removing gloves. The hands shall be dried with individual single-service towels.

5. No person shall be present in the immediate vicinity of the area in which tattoos or body piercing are administered unless authorized by the tattoo artist or body piercer.

6. No animals, except guide dogs, are allowed in the tattoo or body piercing facility.

7. The work areas, such as counter tops, must be cleaned and wiped with a disinfectant between clients.

8. Physical examination of tattoo artists or body piercers.

a. The health officer shall have the power to require any tattoo artist or body piercer to submit to a practicing physician for a physical examination whenever the tattoo artist or body piercer is reasonably suspected of having any infectious or contagious disease that may be transmitted by the practice of tattooing or body piercing. The expense of the physical examination shall be the

responsibility of the tattoo artist or body piercer. All medical records shall remain confidential, except as otherwise provided by law. Failure to obtain the required physical examination shall result in suspension or revocation of the tattoo artist or body piercing permit.

F. Clients.

1. Inquiry shall be made and no tattooing or body piercing shall be performed on any person who is suspected of having jaundice or hepatitis or who has recovered from jaundice or hepatitis within the preceding six months.

2. Tattooing or body piercing shall not be performed on any person in an area with an evident skin infection or other skin disease or condition, including, but not limited to, rashes, pimples, boils or infections. (Ord. 5865 §5, 1998; Ord. 5449, 1994).

5.58.060 Temporary facility or temporary combined facility. The requirements contained in this chapter shall apply to temporary facilities and temporary combined facilities, except where superseded by the following:

A. Permit.

1. No temporary facility or temporary combined facility may be operated before being granted a permit by the city-county health department.

2. No permit may be issued without prior inspection.

3. The permit issued by the city-county health department shall be conspicuously displayed in the temporary facility or temporary combined facility.

4. A tattoo artist or body piercer operating a temporary facility or combined temporary facility, found to be an habitual violator of this chapter by the city-county health department, may be denied a permit to operate or may have the permit revoked.

B. Premises.

1. Floors shall be maintained in a sanitary condition. Dirt floors shall be covered by an approved material which will provide protection from dust.

2. Handwashing.

a. When water is available under pressure, handwashing facilities with approved liquid waste disposal shall be reasonably accessible to the tattoo artist or body piercer.

b. When water is not available under pressure, a minimum of two basins or a two-compartment basin shall be provided.

3. Water in sufficient quantity shall be hauled and stored in containers that are easily cleanable, provided with tight-fitting covers, and maintained in a clean and sanitary condition.

4. Liquid soap and single-service towels for handwashing and drying hands shall be provided.

C. Equipment. If an approved autoclave/sterilizer is not provided, only pre-sterilized instruments that are prewrapped with time sterile indicator tape attached and stored in a clean, dry manner may be used in the practice of tattooing or body piercing. (Ord. 5865 §6, 1998; Ord. 5449, 1994).

5.58.070 Record retention. Records shall be kept by each permittee of all tattoos and body piercings administered, including the name of the client, date, general identification of the tattoo or body piercing, and tattoo artist's or body piercer's name. Records shall be kept on the premises of the tattoo or body piercing facility where tattoos or body piercings are administered. These records shall be available for inspection for a period of two years after the date the tattoo or body piercing is completed. (Ord. 5865 §7, 1998; Ord. 5449, 1994).

5.58.080 Appeals. Appeals from health department orders shall be pursuant to health department policy adopted in conformance with the procedures for conducting appeals enumerated in Section 68, Wisconsin Statutes. Copies of the appeal procedures shall be available at the health department. An appeal does not eliminate the department's right to seek court intervention in the form of injunctive or other relief. (Ord. 5449, 1994).

5.58.090 Violation -- Penalties. Any person who violates or refuses to comply with any provision of this chapter shall be subject to a forfeiture of not less than \$50.00 nor more than \$500.00 for each offense. Each day a violation exists or continues shall be considered a separate offense. (Ord. 5449, 1994).

5.58.100 Regulations, rules and laws adopted by reference. The applicable regulations, rules and laws set forth in ss. 252.23, 252.24 and 252.245, Wis. Stats., and HFS 173 of the Wisconsin Administrative Code are incorporated in this chapter by reference and they shall be construed, read and interpreted as though fully set forth herein. The express provisions of this chapter shall control where more restrictive. (Ord. 5865 §8, 1998).

Chapter 5.60

PRIVATE COMMUNICATIONS SYSTEMS

Sections:

I. Permits for Use of Right of Way for Private Telecommunications Systems

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- 5.60.020 Permit required.**
- 5.60.030 Compensation required; license fee.**
- 5.60.040 Fee adjustment.**
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- 5.60.070 Use of streets and pole attachments.**
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II. Permits for Use of Right of Way for Wireless Communications and Wireless Communications Systems

- 5.60.110 Definitions**
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- 5.60.230 Revocation--Appeal.**
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Subchapter I

Permits for Use of Right of Way for Private Telecommunications Systems

5.60.010 Definitions. In this chapter, the following words and terms have the meaning indicated, unless the context in which they are used clearly requires otherwise:

A. "Cable television system" means a non-broadcast facility consisting of a set of transmission paths with associated signal generation, reception and control equipment, under common ownership and control, which distributes or is designed to distribute to owners, users or subscribers, the signals of one or more television broadcast stations and other subscriber services with an existing franchise issued pursuant to the provisions of Title 4 of this code.

B. "Department of public works" and "city engineer" mean the department of public works of the city and the city engineer designated by the city, respectively.

C. "FCC" means the Federal Communications Commission or its legal successor.

D. "Local access transport area (LATA)" means that geographic area and communications system in which the city is located and in which Ameritech or any subsequent telephone company is authorized by the Wisconsin Public Service Commission to provide exchange access telecommunications services.

E. "Local telephone service" means:

1. The access to a local telephone system and the privilege of telephonic-quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system; or

2. Any facility or service provided in connection with a service described in subsection 1.

The term "local telephone service" does not include any service which is a toll telephone service; service provided by means of a private communication system; cellular mobile telephone or telecommunication service; specialized mobile telephone or telecommunication service; specialized mobile radio, or pagers and paging, service, including, but not limited to, "beepers" and any other form of mobile and portable one-way or two-way communication; or telephone typewriter or computer exchange service.

F. "Telecommunication permit" means the privilege granted by the city in which the city authorizes a person to erect, construct, reconstruct, operate, dismantle, test, use, maintain, repair, rebuild and replace a private communications system that occupies the streets, public ways or public places within the city. Any telecommunication permit issued in accordance herewith shall be a nonexclusive permit.

G. "Permittee" means any person who is issued a telecommunication permit under this chapter. The term includes all officers, employees, agents, representatives, successors and assigns of a permittee.

H. "Public place" includes sidewalks, parking lots, parking ramps, driveways within street right of way, leased areas and easements in which the city has a possessory interest, and any other place owned or under the control of the city and open to the public.

I. "Private communications system" means any system of communications lines, cables, equipment or facilities which are used to provide a telephone, video, data, telemetry, intercom or telecommunications service, that in any manner occupies the streets, public ways or public places within the corporate limits of the city. The term also includes private owned lines or cables placed by an operator of a wireless communications system, as defined under subchapter II of this chapter, to support the backhaul portion of the network, unless the operator is a franchised telephone company or a franchised operator of a cable television system.

J. "Toll telephone service" means:

1. A telephonic-quality communication service for which there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication; or
2. A service which entitles the subscriber or user, upon which the payment of a periodic charge which is determined as a flat amount or upon the basis of total elapsed transmission time, to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.

K. "Total gross revenues" means all cash, credits or property of any kind or nature reported as revenue on permittee's audited income statements arising from or attributable to the sale or exchange of private communications services by the permittee or in any way derived from the operation of its private communications system within the city, including, but not limited to, any interconnection between its system and any other system. The term shall not include bad debts, deposits, promotional or vendor discounts or credits, or sales, service, occupation or other excise taxes to the extent that such taxes are charged separately from normal service charges and are remitted by the permittee directly to the taxing authority. (Ord. 5470, 1995).

5.60.020 Permit required. No person shall construct, operate or continue to operate a private communications system without a telecommunication permit under this chapter, unless exempted from such permit requirement by the provisions of this chapter. Application for the license shall be to the city clerk on forms required by the city clerk. The permit shall be issued by the city clerk. (Ord. 5470, 1995).

5.60.030 Compensation required; license fee. Except as otherwise provided, each permittee shall pay to the city, in consideration of the issuance of a telecommunication permit authorizing the occupancy and use of city streets, public ways and public places the following:

- A. A permit fee as stated in the City of Eau Claire Fees and Licenses Schedule.
- B. Lines, cables or fiber optics of a private communications system placed in a conduit or duct-bank owned by another permittee or a franchisee shall require a separate telecommunication permit. The fee for such additional telecommunication permit shall be one-half of the fee imposed under subsection B.
- C. Lines, cables or fiber optics of a private communications system which are placed in a conduit or duct-bank owned by an entity not exempt by law or statute from the provisions of this section shall require a telecommunication permit, unless the franchise or other authorization by which the exempt entity has the right to place the conduit or duct-bank within the city property permits the application of the permit and fee requirements contained in this section to the lessee of space within the conduit or duct-bank.

5.60.040--5.60.070

D. Any telecommunication permittee that serves customers and charges a fee for services provided by a private communications system within the city shall pay, in addition to the applicable fees imposed by this section, 5 per cent of the annual total gross revenues derived by the permittee from transmissions that bypass the local exchange carrier. Such fee shall be paid to the city within 10 days after the first day of each calendar quarter. Revenues derived from transmissions that enter a private communications system through the LATA shall not be considered a part of total gross revenues for the purpose of calculating such fee. (Ord. 6363 §22, 2002; Ord. 5470, 1995).

5.60.040 Fee adjustment. A. The city may, at its option, adjust the fee imposed according to the provisions of section 5.60.030 D. to the extent permitted by law or by an amount not exceeding the proportional cumulative increase in the Consumer Price Index published by the United States Department of Labor for Urban Wage Earners (1967=100%), whichever is greater. The city council shall provide all permittees with reasonable notice and an opportunity to be heard prior to enacting any such adjustment as provided in this section.

B. In the event that the FCC or other entity or agency having jurisdiction determines that any charge or fee imposed under this chapter is unlawful or otherwise unauthorized, or authorizes the establishment of a different charge or fee, either greater or less than that imposed by this chapter, then the charge or fee affected shall be deemed to be modified, without further action of the city council, so as to bring all charges and fees into conformity with such determination. (Ord. 5470, 1995).

5.60.050 Permit nonexclusive; term. A. A telecommunication permit issued under this chapter shall be a nonexclusive permit for the use of the streets, public ways or public places as specified in the permit, for the erection, construction, reconstruction, operation, dismantling, testing, use, maintenance, repair, rebuilding and replacement of a private communications system.

B. A telecommunication permit issued under this chapter shall continue in force and effect for as long as the permittee is in compliance with the provisions of this chapter, and all applicable federal and state laws, rules and regulations and local ordinances, and until the space occupied pursuant to the permit is not required by the city for public purposes.

C. If any telecommunication permit is revoked under the provisions of this chapter, the private communications system facilities of permittee shall, at the option of the city, be removed from all streets, public ways and public places of the city at the sole expense of permittee. (Ord. 5470, 1995).

5.60.060 Permit locations. A. A telecommunication permit issued under this chapter shall apply only to the location or locations stated on the permit. Each permit shall state the location of each end and leg of the private telecommunications system and specify the length certified by a registered survey company or through other equivalent means acceptable to the city.

B. Nothing in this chapter shall be construed to be a representation, promise or guarantee by the city that any other permit or other authorization required under any other city ordinance or resolution for the construction or installation of a private communications system shall be issued. The requirements for any other permits as may be required by city ordinance shall continue to apply, together with all applicable permit fees. (Ord. 5470, 1995).

5.60.070 Use of streets and pole attachments. A. Prior to commencing construction of a private communications system within, above, over, under, across or through or in any way connected with the streets, public ways or public places of the city, the permittee shall obtain the written approval of, and all other required permits from, all appropriate agencies of the city, including the department of public works. Applications for such approval shall be made in the form prescribed by the department of public works.

B. Upon obtaining such written approval, the permittee shall give the city engineer written notice of proposed construction within a reasonable time prior to such construction, but in no event less than 10 days before construction, except for emergency repairs of existing lines and cables.

C. Any person who submits a request for a permit in accordance with this chapter shall include therein proposed agreements for the use of existing utility poles and conduits, if applicable, with the owner or owners of such facilities to be used or affected by the construction of the proposed private communications system. All such agreements shall become effective on the date of execution of a permit issued under this chapter. In the event that permission to use existing poles or conduits cannot be obtained, the permittee shall submit documentation or other evidence to the city which supports the unavailability of such poles and conduits, and a detailed alternate plan for construction, which plan assures protection for all existing facilities.

D. No permittee shall open or otherwise disturb the surface of any street, public way or other public place for any purpose without obtaining approval to do so as prescribed in subsections A. and B.

E. The permittee shall comply with all applicable provisions in the code of ordinances of the city of Eau Claire, including, but not limited to, those contained in chapter 13.10. The permittee shall restore any street, public way or public place which has been disturbed by its activities in accordance with the requirements of the city. More particularly, the permittee shall, at its own expense, restore and replace all such property injured, damaged or disturbed in a condition as good as the condition of the property immediately prior to the disturbance, damage or injury. As an alternative, in the discretion of the city engineer, the permittee shall pay to the city an amount equal to restore the property to the condition set forth herein.

F. The permittee shall occupy the streets, public ways and public places of the city as a terminable privilege under the laws of the State of Wisconsin, including, but not limited to, s. 66.045, Wis. Stats., as the same may be amended from time to time. The permittee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, public way or other public place, or remove from such street, public way or public place, any of its property and facilities when required to do so by the city due to any public work or improvement, street vacation and abandonment, or any other work or improvement required for the public health, safety and welfare. The permittee shall promptly remove its property and facilities upon the termination or expiration of its telecommunication permit, without reimbursement or compensation therefor from the city.

G. Nothing in this chapter or any permit issued under this chapter shall be deemed to authorize the permittee to erect and maintain new poles in areas serviced by existing poles if such existing poles are available to accommodate and include permittee's facilities. The permittee shall obtain written approval from the city engineer and all other appropriate agencies of the city prior to the erection of new poles or underground conduits in areas where such poles or underground conduits are not in existence to accommodate and include permittee's facilities.

H. Permittee shall maintain all cables, conduits, wires and all other facilities and appurtenances in good condition, order and repair.

I. Permittee shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the city and shall furnish to the city, as soon as reasonably practicable, two complete copies of such maps and records, including as-built drawings, to the department of public works.

J. The permittee shall comply with all rules and regulations issued by the department of public works which regulate and control the construction and installation of private communications systems within the city. The permittee shall comply with all of the standards and requirements contained in s. 4.04.090, pertaining to cable television franchisees, insofar as applicable. (Ord. 5470, 1995).

5.60.080 Indemnification and insurance. A. The permittee shall indemnify and hold harmless the city, its officers, boards, commissions, agents and employees, against and from any and all claims, demands, causes of action, actions, suits, proceedings and damages, including costs or liabilities of the city with respect to its employees, of every kind and nature whatsoever, including, but not limited to, damages for injury or death or damage to person or property, and regardless of the merit of any of the same, and against all liability to others, and against any loss, cost and expense resulting or arising out of any of the same, including any attorneys fees, accountant fees, expert witness or consultant fees, court costs, per diem expense, traveling and transportation expense, or other costs or expenses for any damages resulting from the operation, construction or maintenance of the system.

B. The permittee shall, at the sole risk and expense of the permittee, upon demand of the city, made by and through the city attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative or otherwise, brought or instituted or had by third parties or duly constituted authorities, against or affecting the city, its officers, boards, commissions, agents or employees, and arising out of or pertaining to the exercise or the enjoyment of the telecommunication permit issued to permittee or the granting thereof by the city.

C. The permittee shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive or demand rendered, made or issued against permittee, the city, its officers, boards, commissions, agents or employees in any of these premises, and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, deposit, undertaking or other assurance required hereunder, provided that neither permittee nor city shall make or enter into any compromise or settlement of any claim, demand, cause of action, action, suit or other proceeding without first obtaining the consent of the other.

D. The permittee shall file with the city clerk and shall, during the term of its permit, maintain in full force and effect at its own cost and expense the following:

1. General comprehensive liability insurance in the amount of at least \$1 million, together with personal injury liability insurance in an amount of not less than \$250,000 for injuries, including accidental death, to any one person, and subject to the same limit for each person in an amount not less than \$500,000 on account of any one occurrence, and property damage liability insurance in an amount not less than \$250,000 resulting from any one occurrence, and workers compensation insurance; provided as follows:

a. The city shall be named as an additional insured on all of said insurance policies; and

b. Where such insurance is provided by a policy which also covers permittee or any other entity or person, it shall contain a standard cross-liability endorsement; and

c. All insurance, including performance bonds, shall be issued by companies authorized to do business in the state of Wisconsin; and

d. All insurance required by this section shall be and remain in full force and effect for the entire life of the permit. Said policy or policies of insurance or a certified copy or copies thereof shall be approved by the city attorney and deposited with and kept on file by the city clerk.

2. The permittee shall not cancel any such insurance policy nor reduce the coverage thereof without prior written notice to the city clerk at least 15 days in advance. (Ord. 5470, 1995).

5.60.090 Transfers or assignments. No telecommunication permit shall be transferred or assigned, in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person other than permittee, without the prior express written consent of the city. The consent or approval of the city to any transfer or assignment of a permit shall not constitute a waiver or release of the rights of the city in and to its streets, public ways or public places. For purposes of this section, the merger or consolidation of the permittee with another person or entity shall not be deemed to constitute a transfer or assignment within the meaning of this section. The assignment to an unaffiliated company to place a line, cable or fiber optic facility within a permitted conduit or duct bank of a permittee shall require an additional telecommunication permit accompanied by payment of all applicable charges and fees. (Ord. 5470, 1995).

5.60.100 Existing private communications systems. Except as the same have been authorized pursuant to s. 66.045, Wis. Stats., and chapter 13.24 of this code of ordinances, all lines, cables and facilities of private communications systems which had been constructed or placed within the streets, public ways or public places of the city prior to the effective date of this chapter (revisor inserts date) shall be deemed to lack authorization to occupy said streets, public ways or public places. All unauthorized lines, cables and facilities of a private communications system shall thereafter be permitted to continue to occupy the streets, public ways and public places of the city only if compliance is obtained with all provisions of this chapter. The private communications system shall be granted a period of 3 months from the effective date of this chapter within which to obtain such compliance, provided that such period may be extended by action of the city council for good cause shown. (Ord. 5470, 1995).

SUBCHAPTER II

Permits for Use of Right of Way for Wireless Communications and Wireless Communications Systems

5.60.110 Definitions. The definitions contained in s. 5.60.010 are incorporated into this subchapter to the extent that such definitions are applicable. In this subchapter, the following words and terms have the meaning indicated, unless the context in which they are used clearly requires otherwise:

A. "Backhaul network" means the physical network that connects micro cells or pico cells to a central switching point or to the public switch telephone network.

B. "Cell site" means the location of a transmitter-receiver and backhaul network interface which provides telephonic or telecommunications type service to subscribers. The term includes single pole mounted receiver-transmitter units, receiver-transmitter units located on new or existing antenna structures, and receiver-transmitter units located on buildings and rooftops.

C. "Micro cell" means a transmitter-receiver system used to communicate to a subscriber's handset and having a typical range of 600 to 1,000 meters.

D. "Permittee" means the person who is issued a wireless communication permit in accordance with the provisions of this chapter.

E. "Pico cell" means a transmitter-receiver system used to communicate to a subscriber's handset and having a typical range of 200 to 600 meters.

F. "Total gross revenues" means all cash, credits or property of any kind or nature reported as revenue items to permittee's audited income statements arising from or attributable to the sale, lease, rental or exchange of permittee's wireless communications system, including, but not limited to, any interconnection between permittee's system within the city and any other system. The term shall not include bad debts, deposits, promotional or vendor discounts or credits, or sales, service, occupation or other excise taxes to the extent that such taxes are charged separately from normal service charges and are remitted by the permittee directly to the taxing authority.

G. "Wireless communication permit" means the privilege granted by the city by which it authorizes a person to erect, construct, reconstruct, operate, dismantle, test, use, maintain, repair, rebuild or replace a wireless communications system that occupies any portion of the streets, public ways or public places within the city.

H. "Wireless communications system" means any system which uses a form of cellular telephony which allows business and residential subscribers to access or make telephone calls, or both, through the wireless telecommunications system or over the public switch telephone network using small cordless telephone devices which communicate with limited range cells (transmitter/receiver sites) connected to a backhaul network. (Ord. 5470, 1995).

5.60.120 Permit required. No person shall construct, operate or continue to operate a wireless communications system which occupies any street, public way or public place within the city without a wireless telecommunication permit issued under this chapter, unless exempted from such permit requirement by the provisions of this chapter. Application for the license shall be to the city clerk on forms required by the city clerk. The permit shall be issued by the city clerk. (Ord. 5470, 1995).

5.60.130 Compensation required; license fee. Except as otherwise provided, each permittee shall pay to the city, in consideration of the issuance of a wireless telecommunication permit authorizing the occupancy and use of city streets, public ways and public places, the following:

A. A permit initiation fee as stated in the City of Eau Claire Fees and Licenses Schedule for each cell site.

B. The permittee shall annually pay to the city a minimum of 5%, or the maximum percentage allowed by law, of total gross revenues derived from the operation of the wireless telecommunication system, including, but not limited to, equipment rental, voice service, data service, vehicle location services, security monitoring, paging and all other services of permittee and related persons or entities subsidiary to permittee which use the wireless system to generate any portion of permittee's revenue. (Ord. 6363 §22, 2002; Ord. 5470, 1995).

5.60.140 Fee; adjustment; savings clause. A. The city may, at its option, adjust the fee imposed according to the provisions of section 5.60.130 B. to the extent permitted by law or by an amount not exceeding the proportional cumulative increase in the Consumer Price Index published by the United States Department of Labor for Urban Wage Earners (1967=100%), whichever is greater. The city council shall provide all permittees with reasonable notice and an opportunity to be heard prior to enacting any such adjustment as provided in this section.

B. In the event that the FCC or other entity or agency having jurisdiction determines that any charge or fee imposed under this chapter is unlawful or otherwise unauthorized, or authorizes the establishment of a different charge or fee, either greater or less than that imposed by this chapter, then the charge or fee affected shall be deemed to be modified, without further action of the city council, so as to bring all charges and fees into conformity with such determination. (Ord. 5470, 1995).

5.60.150 Permit nonexclusive; term. A. A telecommunication permit issued under this chapter shall be a nonexclusive permit for the use of the streets, public ways or public places as specified in the permit, for the erection, construction, reconstruction, operation, dismantling, testing, use, maintenance, repair, rebuilding and replacement of a private communications system.

B. A wireless telecommunication permit issued under this chapter shall continue in force and effect for as long as the permittee is in compliance with the provisions of this chapter, and all applicable federal and state laws, rules and regulations and local ordinances, and until the space occupied pursuant to the permit is not required by the city for public purposes.

C. If any wireless telecommunication permit is revoked under the provisions of this chapter, the private communications system facilities of permittee shall, at the option of the city, be removed from all streets, public ways and public places of the city at the sole expense of permittee. (Ord. 5470, 1995).

5.60.160 Permit locations. A. A wireless communication permit issued under this subchapter shall apply only to the location or locations stated on the permit. Each permit shall clearly state the location of each cell site and specify the height and cell configuration.

B. Nothing in this subchapter shall be construed to be a representation, promise or guarantee by the city that any other permit or other authorization required under any other city ordinance or resolution for the construction or installation of a wireless communications system shall be issued. The requirements for any other permits as may be required by city ordinance shall continue to apply, together with all applicable permit fees. (Ord. 5470, 1995).

5.60.170 Use of streets and pole attachments. A. Prior to commencing construction of a private communications system within, above, over, under, across or through or in any way connected with the streets, public ways or public places of the city the permittee shall obtain the written approval of, and all other required permits from, all appropriate agencies of the city, including the department of public works. Applications for such approval shall be made in the form prescribed by the department of public works.

B. Upon obtaining such written approval, the permittee shall give the city engineer written notice of proposed construction within a reasonable time prior to such construction, but in no event less than 10 days before construction, except for emergency repairs of existing lines and cables.

C. Any person who submits a request for a permit in accordance with this chapter shall include therein proposed agreements for the use of existing utility poles and conduits, if applicable, with the owner or owners of such facilities to be used or affected by the construction of the proposed wireless communications system. All such agreements shall become effective on the date of execution of a permit issued under this chapter. In the event that permission to use existing poles or conduits cannot be obtained, the permittee shall submit documentation or other evidence to the city which supports the unavailability of such poles and conduits and a detailed alternate plan for construction, which plan assures protection for all existing facilities. Such plans shall include detailed renderings of the location and the manufacturer's specifications for the cell site equipment.

D. No permittee shall open or otherwise disturb the surface of any street, public way or other public place for any purpose without obtaining approval to do so as prescribed in subsections A. and B.

E. The permittee shall comply with all applicable provisions in the code of ordinances of the city of Eau Claire, including, but not limited to, those contained in chapter 13.10. The permittee shall restore any street, public way or public place which has been disturbed by its activities in accordance with the requirements of the city. More particularly, the permittee shall, at its own expense, restore and replace all such property injured, damaged or disturbed in a condition as good as the condition of the property immediately prior to the disturbance, damage or injury. As an alternative, in the discretion of the city engineer, the permittee shall pay to the city an amount equal to restore the property to the condition set forth herein.

F. The permittee shall occupy the streets, public ways and public places of the city as a terminable privilege under the laws of the State of Wisconsin, including, but not limited to, s. 66.045, Wis. Stats., as the same may be amended from time to time. The permittee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, public way or other public place, or remove from such street, public way or public place, any of its property and facilities when required to do so by the city due to any public work or improvement, street vacation and abandonment or any other work or improvement required for the public health, safety and welfare. The permittee shall promptly remove its property and facilities upon the termination or expiration of its telecommunication permit.

G. Nothing in this chapter or any permit issued under this chapter shall be deemed to authorize the permittee to erect and maintain new poles in areas serviced by existing poles if such existing poles are available to accommodate and include permittee's facilities. The permittee shall obtain written approval from the city engineer and all other appropriate agencies of the city prior to the erection of new poles or underground conduits in areas where such poles or underground conduits are not in existence to accommodate and include permittee's facilities.

H. Permittee shall maintain all cables, conduits, wires and all other facilities and appurtenances in good condition, order and repair.

I. Permittee shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the city and shall furnish to the city, as soon as reasonably practicable, two complete copies of such maps and records, including as-built drawings, to the department of public works.

J. The permittee shall comply with all rules and regulations issued by the department of public works which regulate and control the construction and installation of wireless communications systems within the city. The permittee shall comply with all of the standards and requirements contained in s. 4.04.090, pertaining to cable television franchisees, insofar as applicable. (Ord. 5470, 1995).

5.60.180 Transfers or assignments. No wireless telecommunication permit shall be transferred or assigned, in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person other than permittee, without the prior express written consent of the city. The consent or approval of the city to any transfer or assignment of a permit shall not constitute a waiver or release of the rights of the city in and to its streets, public ways or public places. For purposes of this section, the merger or consolidation of the permittee with another person or entity shall not be deemed to constitute a transfer or assignment within the meaning of this section. (Ord. 5470, 1995).

5.60.190 Placement on private property. A. All micro cell and pico cell facilities located on private property shall require a permit as provided by s. 5.60.120. The application for a permit shall include a detailed design drawing of the proposed cell site and an appropriate document showing the granting of permission by the property owner. All fees and requirements of this chapter shall apply to all such facilities.

B. No micro cell site, pico cell site, repeater or translator facilities shall be permitted to be located on property which is zoned for residential use under title 18 of the code of ordinances for the city of Eau Claire. (Ord. 5470, 1995).

5.60.200 Removal of cell sites. Upon the termination, cancellation, revocation or denial of any permit required under this chapter, the requestor or permittee shall promptly remove all cell sites and appurtenances included or proposed to be included under such permit at the request of the city. (Ord. 5470, 1995).

5.60.210 Indemnification and Insurance. A. The permittee shall indemnify and hold harmless the city, its officers, boards, commissions, agents and employees, against and from any and all claims, demands, causes of action, actions, suits, proceedings and damages, including costs or liabilities of the city with respect to its employees, of every kind and nature whatsoever, including, but not limited to, damages for injury or death or damage to person or property, and regardless of the merit of any of the same, and against all liability to others, and against any loss, cost and expense resulting or arising out of any of the same, including any attorneys fees, accountant fees, expert witness or consultant fees, court costs, per diem expense, traveling and transportation expense, or other costs or expenses for any damages resulting from the operation, construction or maintenance of the system.

B. The permittee shall, at the sole risk and expense of the permittee, upon demand of the city, made by and through the city attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative or otherwise, brought or instituted or had by third parties or duly constituted authorities, against or affecting the city, its officers, boards, commissions, agents or employees, and arising out of or pertaining to the exercise or the enjoyment of the wireless telecommunication permit issued to permittee or the granting thereof by the city.

C. The permittee shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive or demand rendered, made or issued against permittee, the city, its officers, boards, commissions, agents or employees in any of these premises, and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, deposit, undertaking or other assurance required hereunder, provided that neither permittee nor city shall make or enter into any compromise or settlement of any claim, demand, cause of action, action, suit or other proceeding without first obtaining the consent of the other.

D. The permittee shall file with the city clerk and shall, during the term of its permit, maintain in full force and effect at its own cost and expense the following:

1. General comprehensive liability insurance in the amount of \$1 million, together with personal injury liability insurance in an amount of not less than \$250,000 for injuries, including accidental death, to any one person, and subject to the same limit for each person in an amount not less than \$500,000 on account of any one occurrence, and property damage liability insurance in an amount not less than \$250,000 resulting from any one occurrence, and workers compensation insurance; provided as follows:

a. The city shall be named as an additional insured on all of said insurance policies; and

b. Where such insurance is provided by a policy which also covers permittee or any other entity or person, it shall contain a standard cross-liability endorsement; and

c. All insurance, including performance bonds, shall be issued by companies authorized to do business in the state of Wisconsin; and

d. All insurance required by this section shall be and remain in full force and effect for the entire life of the permit. Said policy or policies of insurance or a certified copy or copies thereof shall be approved by the city attorney and deposited with and kept on file by the city clerk.

2. The permittee shall not cancel any such insurance policy nor reduce the coverage thereof without prior written notice to the city clerk at least 15 days in advance. (Ord. 5470, 1995).

5.60.220 Existing private communications systems. Except as the same have been authorized pursuant to s. 66.045, Wis. Stats., and chapter 13.24 of this code of ordinances, all lines, cables and facilities of wireless communications systems which had been constructed or placed within the streets, public ways or public places of the city prior to the effective date of this chapter (revisor inserts date) shall be deemed to lack authorization to occupy said streets, public ways or public places. All unauthorized lines, cables and facilities of a wireless communications system shall thereafter be permitted to continue to occupy the streets, public ways and public places of the city only if compliance is obtained with all provisions of this chapter. The wireless communications system shall be granted a period of 3 months from the effective date of this chapter within which to obtain such compliance, provided that such period may be extended by action of the city council for good cause shown. (Ord. 5470, 1995).

SUBCHAPTER III

Revocation and Penalty

5.60.230 Revocation--Appeal. Any permit issued hereunder may be revoked by the city clerk upon administrative determination that the permit holder has failed or refused to comply with the provisions of this chapter, or for violation of the rules, regulations, or laws related to private communications systems. Appeal from the afore stated determination shall be made to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board. (Ord. 6572 §12, 2005; Ord. 5470, 1995).

5.60.240 Penalty. Any person who violates any provision of this chapter shall forfeit not exceeding \$1,000 for each offense. Each day during which a violation continues shall be deemed to constitute a separate offense. (Ord. 5470, 1995).

Chapter 5.62

WEIGHTS AND MEASURES

Sections:

5.62.010 Purpose.

5.62.020 Fee assessment.

5.62.030 Notice of invoice.

5.62.040 Fee payment

5.62.010 Purpose. The city of Eau Claire is required by Wisconsin Statutes Chapter 98 to either create a department of weights and measures to enforce the statutory provisions contained therein or contract with the Department of Agriculture, Trade and Consumer Protection for such services. Wisconsin Statutes Section 98.04(2) authorizes cities electing to contract with the state for enforcement services to recover the contract costs from those persons who receive services under the weights and measures program. The city of Eau Claire hereby elects to recover the costs of the state mandated weights and measures program from those persons who receive the service. (Ord. 6553, 2004).

5.62.020 Fee assessment. A fee as stated in the city of Eau Claire Fees and Licenses Schedule shall be assessed to each person that is inspected or receives any weights and measures service under Wisconsin Statutes Chapter 98 provided by the city, or for which the city is billed by the state or other contracted entity. The total fees assessed shall not exceed the actual costs of the inspection or other service provided under the weights and measures program. (Ord. 6553, 2004).

5.62.030 Notice of invoice. A notice of invoice shall be mailed to any person inspected or who received any service under the weights and measures program. The notice shall be considered served when mailed by first class mail, postage prepaid, to the person's last known address. (Ord. 6553, 2004).

5.62.040 Fee payment. Fees shall be paid in full to the city within 30 days of notice. If the assessed fee is not paid in full within 30 days of the date of mailing of the invoice, an additional administrative collection charge of 10% of the unpaid fee, but not less than \$20, shall be added to the amount due, plus interest shall accrue thereon at the rate of 1% per month or fraction thereof until the fee, plus costs and interest, is paid in full. Fees properly assessed under this section shall be enforceable against any person or business entity and against any owner or person in charge of any business entity as a personal action for debt. If the owner or person in charge is also the owner of the real estate on which the weights and measures devices are located, any delinquent fee may be placed upon the tax roll as a charge for current services as provided in Section 66.0627, Wisconsin Statutes. (Ord. 6553, 2004).

Chapter 5.63**MINIMUM WAGE****Sections:**

- 5.63.010 Declaration of policy.**
- 5.63.020 Definitions.**
- 5.63.030 Minimum wage prescribed.**
- 5.63.040 Unlawful wages.**
- 5.63.050 Applicability of minimum wage.**
- 5.63.060 Ability of employers to pay more than minimum wage.**
- 5.63.070 Minimum wage rates.**
- 5.63.080 Determination of compliance.**
- 5.63.090 Proof of previous employment.**
- 5.63.100 Deductions for meals and lodging.**
- 5.63.110 Exceptions to minimum wage.**
- 5.63.120 Deductions and record keeping.**
- 5.63.130 Interpretation of hours worked.**
- 5.63.140 Prohibition of displacement.**
- 5.63.150 Domestic service employment; Casual employment.**
- 5.63.160 Recreational or educational camps.**
- 5.63.170 Caddies.**
- 5.63.180 Student worklike activities and employment.**
- 5.63.190 Sub minimum wage licenses for habilitation/rehabilitation facilities and for the employment of workers with disabilities and student learners.**
- 5.63.200 Penalty for intimidating witness.**
- 5.63.210 Definition of violation.**

5.63.010 Declaration of policy. A. Policy. In order to preserve and promote the public welfare, health, safety, and prosperity of the city of Eau Claire and its residents, it is vital that all persons employed in our community receive wages that ensure they are able to provide themselves and their families with the basic necessities of life; food, shelter, clothing, health care, and education. The common council has determined that, due to the higher costs associated with living and working in the city, the state and federal minimum wages are inadequate to ensure that workers can supply their family's basic needs. As a consequence, such workers often work long hours and hold multiple jobs. This causes hardship for them and their families, prevents them from pursuing further education, and limits their participation in the cultural and civic life of our community. To the extent that it is necessary to establish a higher minimum wage for all employees within the city of Eau Claire, the common council enacts this ordinance to supplement those provisions of Wis. Admin. Code § DWD pertaining to the establishment of a statewide minimum wage.

B. Determination of rates. The rates adopted in this chapter reflect compensation that has been determined to be adequate to permit any employee within the city of Eau Claire to maintain herself or himself in minimum comfort, decency, and physical and moral well-being. The city of Eau Claire has also considered the effect that an increase in the minimum wage might have on the economy of the city, including the effect of a minimum wage increase on job creation, retention, and expansion, and on the availability of entry-level employment.

C. Severability. The provisions of this ordinance are severable. If any provision of this ordinance is held to be invalid or unconstitutional, or if the application of any provision of this ordinance to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or applications of this ordinance, which can be given effect without the invalid or unconstitutional provisions or applications. It is hereby declared the intent of the common council that this ordinance would have been adopted had any invalid or unconstitutional provision or applications not been included herein. No portion of this ordinance is intended to contravene or conflict with any portion or provision of Ch. 104, Wis. Stats., and/or Wis. Admin. Code. Ch.'s. DWD 271, 274, or 275. (Ord. 6607, 2005).

5.63.020 Definitions. As used in this chapter: A. "Agriculture" means the same as "farm premises", as defined in s. 102.04(3), Wis. Stats., of the worker's compensation act.

B. "Bona fide school training program" means a program sponsored by an accredited school and authorized and approved by the state department of public instruction or the board of vocational, technical, and adult education or other recognized educational body, and provides for part-time employment training which may be scheduled for a part of the workday or workweek, supplemented by and integrated with a definitely organized plan of instruction and where proper scholastic credit is given by the school.

C. "Bona fide vocational training program" is one authorized and approved by the state board of vocational, technical, and adult education or other recognized educational body, and provides for part-time employment training which may be scheduled for a part of the workday or workweek, for alternating weeks, or for other limited periods during the year, supplemented by and integrated with a definitely organized plan of instruction designed to teach technical knowledge and related to industrial information given as a regular part of a student learner's course by an accredited school, college, or university.

D. "Employee" means every individual who, in a calendar week, performs at least two hours of compensable work in the city of Eau Claire for any employer and who is in receipt of or is entitled to any compensation for labor performed for any employer. Employees include companions in private homes who shall be entitled to the minimum wage set forth in this ordinance.

"Employee" does not mean:

1. Any individual engaged in the house-to-house delivery of newspapers to the consumer, or engaged in direct house-to-house retail sale to the consumer.

2. Any individual engaged in performing services for a person as a real estate agent or as a real estate salesperson, if all of those services are performed for remuneration solely by commission.

3. Any individual engaged in performing services for an employer described in subsection E. hereof, if that individual is not considered under 29 USC 203 (e) (4), as amended to April 15, 1986, to be an employee for the purposes of the fair labor standards act, 29 USC 201 to 219, or if that individual is exempt under 29 USC 213, as amended to April 1, 1990, from being paid at least the federal minimum hourly wage under 29 USC 206 (a) (1).

4. Any individual engaged in performing services for an employer described in subsection E. hereof, if that individual is not subject to the civil service laws of the employer and if that individual is an elective officer; is on the personal staff of an elective officer, other than a member of the legislature; is appointed by an elective officer to serve on a policymaking level; or is an immediate adviser to an elective officer with respect to the constitutional or legal powers of the elective officer's office.

5. Any individual engaged in performing services for the state, its political subdivisions, and any office, department, independent agency, authority, institution, association, society, or other body in state or local government, other than the city of Eau Claire, created or authorized to be created by the constitution or any law, including the legislature and the courts.

E. "Employer" means and includes every person, firm or corporation, agent, manager, representative, contractor, subcontractor or principal, or other person having control or direction of any person employed at any labor or responsible directly or indirectly for the wages of another. The term "employer" does not include the state, its political subdivisions, and any office, department, independent agency, authority, institution, association, society, or other body in state or local government, other than the city of Eau Claire, created or authorized to be created by the constitution or any law, including the legislature and the courts.

F. "Industry" means a trade, business, industry or branch thereof, or group of industries in which individuals are gainfully employed.

G. "Minimum wage" means compensation for labor paid, whether by time, piecework, or otherwise, sufficient to enable the employee receiving it to maintain himself or herself under conditions consistent with his or her welfare.

H. "Minor" means any person under 18 years of age.

I. "Month" means 30 days.

J. "Opportunity employee" means an employee who is not yet 20 years old during the first 90 consecutive days after the employee is initially employed by the employer.

K. "Tipped employee" means any employee engaged in an occupation in which they customarily and regularly receive tips or gratuities from patrons or others.

L. "Sheltered workshop" means a charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of habilitation/rehabilitation for workers with disabilities, and of providing workers with disabilities with remunerative employment or other occupational habilitating/rehabilitating activity of an educational or therapeutic nature.

M. "Student learner" means a student who is receiving instruction in an accredited school and who is employed on a part-time basis, pursuant to a bona fide school training program. A "bona fide school training program" means a program authorized and approved by the department of public instruction, the technical college system board, or other recognized educational body, and provided for part-time employment training which may be scheduled for a part of the workday or workweek, supplemented by and integrated with a definitely organized plan of instruction, and where proper scholastic credit is given by the accredited school.

N. "Wage" and "wages" each means any compensation for labor measured by time, piece, or otherwise.

O. "Welfare" means and includes reasonable comfort, reasonable physical well-being, decency, and moral well-being.

P. "Worker with a disability" means a worker whose earning capacity is impaired by age or physical or mental deficiency or injury, and who is being served in accordance with the recognized habilitation/rehabilitation program of a sheltered workshop within the facilities of such agency or in or about the home of the worker.

Q. Any other terms not specifically defined herein shall have the same definitions as set forth under Ch. 104, Wis. Stats., and/or Wis. Admin. Code. § DWD 270-279. (Ord. 6607, 2005).

5.63.030 Minimum wage prescribed. Every wage paid or agreed to be paid by any employer to any employee, except as otherwise provided herein, shall be not less than the minimum wage established herein. (Ord. 6607, 2005).

5.63.040 Unlawful wages. Any employer paying, offering to pay, or agreeing to pay any employee a wage lower or less in value than the minimum wage is guilty of a violation of this ordinance. (Ord. 6607, 2005).

5.63.050 Applicability of minimum wage. The rates prescribed in this ordinance shall apply to all employees, including indentured apprentices employed at private employments, including nonprofit organizations, whether paid on a time, piece rate, commission, or other basis for each hour of work performed within the city of Eau Claire. (Ord. 6607, 2005).

5.63.060 Ability of employers to pay more than minimum wage. Nothing contained in this ordinance prohibits an employer from paying more than the minimum rates listed in this ordinance or from treating an employee as a probationary employee for less than the number of days specified in this ordinance. (Ord. 6607, 2005).

5.63.070 Minimum wage rates. A. Rates.

1. Effective July 1, 2005 and except as otherwise provided within this ordinance, no employer shall employ any employee in any occupation, trade, or industry at a lesser hourly rate than is indicated below:

- a. All employees, \$5.65 per hour.
- b. Opportunity employees, \$5.18 per hour.

2. Effective February 1, 2006 and except as otherwise provided within this ordinance, no employer shall employ any employee in any occupation, trade, or industry at a lesser hourly rate than is indicated below:

- a. All employees, \$6.15 per hour.
- b. Opportunity employees, \$5.81 per hour.

3. Effective July 1, 2006 and except as otherwise provided within this ordinance, no employer shall employ any employee in any occupation, trade, or industry at a lesser hourly rate than is indicated below:

- a. All employees, \$6.65 per hour.
- b. Opportunity employees, \$6.41 per hour.

B. Room and meal allowances.

1. Room allowances shall be computed on the basis of 20% of the prescribed minimum rate for employees based on a 40-hour week, rounded off to the nearest 5 cents.

2. Meal allowance shall be computed on the basis of 30% of the prescribed minimum rate for employees based on a 40-hour week, rounded off to the nearest 5 cents.

C. Tips. Where tips or gratuities are received by the employee from patrons or others, the employer may pay the minimum wage rate established by this subsection, providing that the employer can establish by its payroll records that for each week where credit is taken, when adding the tips received to the wages paid, no less than the minimum rate prescribed in subsection A. hereof was received by the employee.

1. Minimum rates for tipped employees.

a. Effective July 1, 2005 and except as otherwise provided within this ordinance, no employer shall employ any tipped employee at a lesser hourly rate than is indicated below:

- i. All employees, \$2.57 per hour.

b. Effective February 1, 2006 and except as otherwise provided within this ordinance, no employer shall employ any tipped employee at a lesser hourly rate than is indicated below:

- i. All employees, \$2.94 per hour.

c. Effective July 1, 2006 and except as otherwise provided within this ordinance, no employer shall employ any tipped employee at a lesser hourly rate than is indicated below:

- i. All employees, \$3.28 per hour.

2. Burden of proof.

a. When the employer elects to take tip credit, the employer must have a tip declaration signed by the tipped employee each pay period and show on the payroll records that any required social security or taxes have been withheld each pay period to show that when adding the tips received to the wages paid by the employer, no less than the minimum rate was received by the employee. When the employer's time and payroll records do not contain these requirements, no tip credit shall be allowed.

3. General characteristics of "tips".

a. Tip means a sum presented by a customer as a gift or gratuity in recognition of some service performed for them. It is to be distinguished from payment of a charge, if any, made for the service. Whether a tip is to be given, and its amount, are matters determined solely by the customer, and generally they have the right to determine who shall be the recipient of their gratuity. In the absence of an agreement to the contrary between the recipient and a third party, a tip becomes the property of the person in recognition of whose service it is presented by the customer. Only tips actually received by an employee as money belonging to them which they may use as they choose free of any control by the employer may be counted in determining whether they are a "tipped employee".

b. In addition to cash sums presented by customers which an employee keeps as his or her own, tips received by an employee include amounts paid by bank check or other negotiable instrument payable at par, and amounts transferred by the employer to the employee pursuant to directions from credit customers who designate amounts to be added to their bills as tips. Special gifts in forms other than money or its equivalent as above described, such as theater tickets, passes, or merchandise, are not counted as tips received by the employee.

4. Tip pooling. Where employees practice tip splitting, as where waiters or waitresses give a portion of their tips to the bus persons, both the amounts retained by the waiters or waitresses and those given to the bus persons are considered tips of the individuals who retain them.

5. Service charge.

a. A compulsory charge for service, such as 15% of the amount of the bill, imposed on a customer by an employer's establishment, is not a tip unless distributed by the employer to their employees.

b. Similarly, where negotiations between a hotel or restaurant and a customer for banquet facilities include amounts for distribution to employees of the hotel or restaurant, the amounts must be so distributed to the employees at the end of the pay period in which it is earned.

c. If the employer in their payroll records can establish a breakdown of the service charge, such as how much is for tips, room charge, decorations, and other chargeable services, only the amount for tips must be paid to the employee at the end of the pay period in which it is earned.

d. Similarly, where an accounting is made to an employer for their information only or in furtherance of a pooling arrangement whereby the employer redistributes the tips to the employees upon some basis to which they have mutually agreed among themselves, the amounts received and retained by each individual as his or her own are counted as their tips.

6. Receiving the minimum amount "customarily and regularly". The employee must receive tips "customarily and regularly" in the occupation in which they are engaged in order to qualify as a tipped employee. If it is known that they always receive more than the stipulated amount each month, as may be the case with many employees in occupations such as those of waiters, waitresses, bellhops, taxicab drivers, barbers, or beauty operators, the employee will qualify and the tip credit provisions of subsection C. may be applied. On the other hand, an employee who only occasionally or sporadically receives tips, such as at Christmas or New Years when customers may be more generous than usual, will not be deemed a tipped employee. The phrase "customarily and regularly" signifies a frequency which must be greater than occasional, but which may be less than constant. If an employee is in an occupation in which they normally and recurrently receives tips, he or she will be considered a tipped employee even though occasionally, because of sickness, vacation, seasonal fluctuations or the like, they fail to receive tips in a particular month.

7. The tip wage credit.

a. In determining compliance with the wage payment requirements, the amount paid to a tipped employee by an employer as allowable under subsection C. is deemed to be increased on account of tips to equal the minimum wage applicable under subsection A. to such employee in the pay period for which the wage payment is made. This credit is in addition to any credit for board, lodging, or other facilities which may be allowable under subsections D. and E. The credit allowed on account of tips may be less than the difference between the applicable minimum wage and the rate for a tipped employee, but it cannot be more.

b. It is presumed that in the application of this special provision the employee will receive at least the maximum tip credit in actual tips: "If the employee receives less than the amount credited, the employer must pay the balance so that the employee receives at least the minimum wage with the defined combination of wages and tips."

c. Under employment agreements requiring tips to be turned over or credited to the employer to be treated by them as part of their gross receipts, it is clear that the employer must pay the employee the full minimum hourly wage, since for all practical purposes, the employee is not receiving tip income.

8. Overtime payments. When overtime is worked by a tipped employee who is subject to the overtime pay of Wis. Admin. Code § DWD 274, their regular rate of pay is determined by dividing their total remuneration for employment in any workweek by the total number of hours actually worked by them in that workweek for which such compensation was paid. A tipped employee's regular rate of pay includes the amount of tip credit taken by the employer, and the cash wages, including commissions and certain bonuses paid by the employer. Any tips received by the employee in excess of the tip credit need not be included in the regular rate. Such tips are not payments made by the employer to the employee as remuneration for employment within the meaning of Wis. Admin. Code § DWD 274.

D. Allowance for board and lodging. Where board or lodging or both are furnished by the employer in accordance with Wis. Admin. Code § DWD 272.04 and accepted and received by a particular employee, an allowance may be made not to exceed the following amounts:

1. Lodging.
 - a. All employees except opportunity employees, \$41.20 per week or \$5.90 per day.
 - b. Opportunity employees, \$34.00 per week or \$4.85 per day.
2. Meals.
 - a. All employees except opportunity employees, \$61.80 per week or \$2.95 per meal.
 - b. Opportunity employees, \$51.00 per week or \$2.45 per meal.

E. Board and lodging; value. Where board, lodging, or other necessities of life are furnished by the employer in accordance with s. 5.63.100 hereof and accepted and received by the employee or his or her spouse or both, by minor children or other dependents, an allowance may be made, not to exceed the "fair value" of such necessities, on the basis of average cost to the employer, or to groups of employers similarly situated, or average values to groups of employees or other appropriate measures of fair value.

F. Payment of wages on other than time basis. Where payment of wages is made upon a basis or system other than time rate, the actual wage paid per payroll period shall not be less than provided for in this ordinance.

G. Home work. Wages paid to home workers shall be not less than the rates prescribed in this ordinance. (Ord. 6607, 2005).

5.63.080 Determination of compliance. The payroll period shall be taken as the unit of determining compliance with the minimum rates prescribed in this ordinance. (Ord. 6607, 2005).

5.63.090 Proof of previous employment. An employee is responsible for providing the proof of previous employment necessary to determine if the person is a probationary employee. An employer shall not be liable for a violation of this section if the violation is caused by the employer's good faith reliance on the proof presented by an employee under this section. (Ord. 6607, 2005).

5.63.100 Deductions for meals and lodging. A. A meal means an adequate, well-balanced serving of a variety of wholesome and nutritious foods.

1. Deductions may be made only for bona fide meals consistent with the employee's work shift. No deductions shall be made or credit given for meals not eaten, except in employments where weekly room and board is provided and accepted.

2. An employer shall not require that meals be accepted as part payment of wages.

3. The employer must pay all employees for "on duty" meal periods. Such periods are to be counted as work time. An "on duty" meal period is one where the employer does not provide at least 30 minutes free from work. Any meal period where the employee is not free to leave the premises of the employer will also be considered an "on duty" meal period.

4. Authorized rest periods or breaks of less than 30 consecutive minutes per shift shall be counted as work time for which there shall be no deduction from wages.

5. Whenever a collective bargaining agreement exists, it shall govern.

B. Lodging means living accommodations which are adequate, decent, and sanitary, according to usual and customary standards. Employees shall not be required to share a bed.

C. Room and board deductions may not be made from the wages of a seasonal non-resident agricultural employee that would result in the employee receiving less than the prescribed minimum rate. (Ord. 6607, 2005).

5.63.110 Exceptions to minimum wage. Unless otherwise specifically set forth within this ordinance, the provisions of this ordinance shall not be applicable under any circumstance or with regard to an employment where, in the absence of this ordinance, any of the provisions of Wisconsin Administrative Codes would make the State Minimum Wage provisions inapplicable. (Ord. 6607, 2005).

5.63.120 Deductions and record keeping. The city of Eau Claire does hereby adopt and incorporate into this ordinance, as though fully set forth herein, the provisions of Wis. Admin. Code § DWD 272.10 and DWD § 272.11. Such listings of deductions and such records shall be made available for inspection and copying by any authorized employee of the city of Eau Claire during the regular business hours of the employer. (Ord. 6607, 2005).

5.63.130 Interpretation of hours worked. A. The city of Eau Claire does hereby adopt and incorporate into this ordinance, as though fully set forth herein, the provisions of Wis. Admin Code § DWD 272.12.

B. To the extent that there are any conflicts between those provisions of the Wis. Admin. Code and this ordinance, the provisions of this ordinance shall govern.

C. Any hours of work which constitute sleeping time under the provisions of Wis. Admin. Code § DWD 272.11(2)(d) shall be exempt from the hourly minimum wage rates of s. 5.63.070 hereof. Such hours shall be subject to the appropriate state and federal wage rates in force and effect at the time such wages are earned. (Ord. 6607, 2005).

5.63.140 Prohibition of displacement. An employer may not displace an employee solely for the purpose of hiring an employee to be paid the opportunity wage. (Ord. 6607, 2005).

5.63.150 Domestic service employment; Casual employment.

A. Domestic service employment.

1. "Domestic service employment" means all services related to the care of persons or maintenance of a private household or its premises, on a regular basis, by an employee of a private householder. Such occupations shall include, but not be limited to the following: butlers, chauffeurs, cooks, day workers, gardeners, graduate nurses, grooms, handy persons, house cleaners, housekeepers, laundry persons, practical nurses, tutors, valets, and other similar occupations.

2. Domestic workers who reside in the employer's household are covered under the rates prescribed by this ordinance. Employers may take credit for board and lodging as prescribed herein.

3. Record keeping requirements provided in s. 5.63.120 hereof shall apply.

B. Casual employment. "Casual employment" means employment which is on an irregular or intermittent basis for not more than 15 hours per week for any one employer. This applies to the following: baby sitting, mowing lawns, raking leaves, shoveling snow, or other similar odd jobs. The minimum rates prescribed by this ordinance shall not apply to casual employment in or around a home in work usual to the home of the employer, and not in connection with or part of the business, trade, or profession of the employer. (Ord. 6607, 2005).

5.63.160 Recreational or educational camps. A. Minimum rates. The minimum wage of all employees employed in recreational or educational camps and day camps, except counselors, shall be computed on an hourly basis as prescribed in s 5.63.070 hereof.

B. Allowances for board and lodging. Where board or lodging or both are furnished by the employer in accordance with s. 5.63.100 and accepted and received by the employee, an allowance may be made not to exceed the amounts specified in subsection 5.63.070 D.

C. Counselors. The minimum wage of counselors employed in seasonal recreational or educational camps and day camps may be computed on a weekly basis as follows:

1. Adult counselors 18 years of age and over:

PER WEEK

- a. If board and lodging are not furnished, the rate shall be not less than \$140.00.

- b. If board only is furnished, the rate shall be not less than \$110.00.

- c. If board and lodging are furnished, the rate shall be not less than \$91.00.

2. Counselors 17 years of age and under:

PER WEEK

- a. If board and lodging are not furnished, the rate shall be not less than \$123.00.

- b. If board only is furnished, the rate shall be not less than \$92.00.

- c. If board and lodging are furnished, the rate shall be not less than \$74.00.

D. Records. Recreational or educational camps and day camps are not required to keep the daily and weekly time records required by § DWD 272.11 (1) (d), (e), and (f) for counselors employed and paid on a weekly basis.

E. Definitions. For the purpose of this section:

1. "Recreational or educational camp" means a camp operated under trained leadership for the purpose of providing group experience for and contributing to the physical, mental, spiritual, and social growth of campers who are less than 18 years of age and who make such camp their residence during the camping period.

2. "Recreational or educational day camp" means a camp operated under trained leadership for the purpose of providing group experience and contributing to the physical, mental, spiritual, and social growth of campers who participate in such camping program during daytime periods, but not overnight.

3. "Camp counselor" means a person employed by a "recreational or educational camp" or "recreational or educational day camp" who leads, directs, and instructs campers in such camps in their camping program and activities, and shares responsibility for the total care and well-being of campers. (Ord. 6607, 2005).

5.63.170 Caddies. The minimum wage of employees employed as caddies shall be:

\$5.90 - 9 holes.

\$10.50 - 18 holes. (Ord. 6607, 2005).

5.63.180 Student worklike activities and employment. A. Independent colleges and universities.

1. Independent colleges and universities may employ full-time students who are 18 years of age and over for 20 hours per week or less at the federal minimum wage rates established under 29 USC 206.

2. Students who work at independent colleges or universities for over 20 hours per week shall be paid at the rates established in s. 5.63.070 hereof.

B. Elementary and secondary schools. Student worklike activities that meet the criteria of Wis. Admin. Code § DWD 270.085 are not covered by the minimum wage provisions of this ordinance. (Ord. 6607, 2005).

5.63.190 Sub minimum wage licenses for habilitation/rehabilitation facilities and for the employment of workers with disabilities and student learners. The provisions of this ordinance do not apply to any facility or employer who holds a license in good standing issued by the State of Wisconsin pursuant to Wis. Admin. Code § DWD 272.09, allowing said employer or facility to pay subminimum wages. (Ord. 6607, 2005).

5.63.200 Penalty for intimidating witness. No employer may discharge or threaten to discharge, or in any way discriminate or threaten to discriminate against any employee because the employee has filed a complaint alleging a violation of this ordinance, has otherwise asserted his or her rights under this ordinance, has informed any other employee of his or her rights under this ordinance, has testified or is about to testify or because the employer believes that the employee may testify in any investigation or proceeding relative to the enforcement of this ordinance. Any employer who engages in such prohibited activity is guilty of a violation of this ordinance and upon conviction thereof, shall be subjected to a forfeiture of not less than \$25 nor more than \$2,500 for each offense. (Ord. 6607, 2005).

5.63.210 Definition of violation. Each day during which any employer shall employ a person for whom a minimum wage has been fixed at a wage less than the minimum wage fixed shall constitute a separate and distinct violation of this ordinance. The penalty for each violation shall be a forfeiture of not less than \$25 and not more than \$200 for a first offense within one year, not less than \$200 nor more than \$1,000 for a second violation within one year, and not less than \$1,000 nor more than \$2,500 for a third or subsequent violation within one year. (Ord. 6607, 2005).